

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

* * * * *		CRIMINAL ACTION
UNITED STATES OF AMERICA	*	11-186-S
	*	
VS.	*	APRIL 24, 2013
	*	<u>VOLUME I</u>
JOSEPH CARAMADRE	*	
	*	PROVIDENCE, RI
* * * * *	*	

HEARD BEFORE THE HONORABLE WILLIAM E. SMITH
DISTRICT JUDGE
(Motion to Withdraw Guilty Plea)

APPEARANCES:

FOR THE GOVERNMENT:	JOHN P. McADAMS, AUSA and STEPHEN DAMBRUCH, AUSA U.S. Attorney's Office 50 Kennedy Plaza Providence, RI 02903
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FOR THE DEFENDANT Joseph Caramadre:	RANDY OLEN, ESQ. Olen Law Office 55 Bradford Street Suite 203 Providence, RI 02903
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Court Reporter:	Anne M. Clayton, RPR One Exchange Terrace Providence, RI 02903
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1 24 APRIL 2013 -- 9:30 A.M.

2 THE COURT: Good morning, everyone. This is the
3 matter of the United States versus Joseph Caramadre.
4 We're here on the Defendant's motion to withdraw his
5 plea of guilty.

6 Let's begin by having counsel identify
7 themselves for the record, please.

8 MR. OLEN: Good morning, your Honor. Randy Olen
9 for Mr. Caramadre.

10 MR. WATT: Judge, Robert D. Watt, Jr., for
11 Mr. Caramadre, co-counsel with Mr. Olen.

12 MR. McADAMS: Good morning, your Honor. John
13 McAdams and Stephen Dambruch on behalf of the United
14 States.

15 THE COURT: Okay. Thank you. All right. We've
16 had a number of preliminary discussions with regard to
17 how this hearing will proceed. There are a couple of
18 matters that we should take up before we begin with the
19 presentation of any evidence, and I think the first is
20 to hear from Mr. Gerstein with respect to this request
21 for the file that Mr. Olen and Mr. Watt have made.

22 I don't want to keep you around all day so do
23 you want to talk about that now? You're welcome to
24 stay as long as you like. Nice to see you again,
25 Mr. Gerstein.

1 MR. GERSTEIN: With respect to their request for
2 the file, on this past Sunday at about three o'clock,
3 Mr. Olen apparently sent me an e-mail which was the
4 first request that I had received or that Mr. Traini or
5 Mr. Lepizzera had received for a copy of the entire
6 file, and the demand was that it be produced
7 immediately, which I responded to. And Mr. Olen in his
8 e-mail tied the production of the file to this Court's
9 order. And my response to that was, as I read the
10 order, you bifurcated the issues, one in terms of a
11 waiver of the attorney-client privilege with respect to
12 this hearing; and the second aspect of your order had
13 to do with document production, and the document
14 production was very defined and narrow.

15 So in response to Mr. Olen, I said two things,
16 essentially.

17 One, you're tying it to Judge Smith's order, and
18 Judge Smith's order basically restricts what can be
19 produced; and the fact that you're claiming ineffective
20 assistance of counsel in your request requires a total
21 review of everything that my clients did. That seems
22 to me contrary to what Judge Smith ordered when you
23 said it doesn't have to be production in terms of
24 things like the claim of lack of investigation, failure
25 to cross-examine, et cetera.

1 And I suggested to Mr. Olen that what he was
2 requesting at the time was, in my view, inconsistent
3 with your order and that if the Court ruled otherwise,
4 so be it. Although I still had problems with the
5 timing of it.

6 In response to that, Mr. Olen sent me a second
7 request which now he claims that, no, he's not
8 requesting the file pursuant to the order but now he's
9 requesting the file under the Rules of Professional
10 Responsibility that would require or give his client
11 the right to ask my clients for their entire file,
12 which is a totally different animal than what he
13 presented to me on Sunday.

14 THE COURT: Without going back and rehashing the
15 e-mail communications between you and Mr. Olen, it
16 seems to me that the client, Mr. Caramadre, is entitled
17 to the file. There's this question of attorney work
18 product, which as I reviewed the law, and it had been a
19 lot of years since I looked in this, but we have a
20 rule, there is a rule in Rhode Island that's somewhat
21 at odds with the prevailing rules in other
22 jurisdictions and the model rules as to the retention
23 of documents that are attorney work product. And as I
24 understand it, the Supreme Court Ethics Advisory Panel
25 opinion 92-88 in 1993 said that you could withhold

1 attorney work product, and that was acknowledged again
2 in 1996, but there really hasn't been anything since
3 then. And the rules have kind of moved in the other
4 direction in the model rules and elsewhere. So we have
5 this kind of odd situation.

6 So I thought the position that Mr. Traini and
7 Lepizzera were taking through you was they wanted to
8 withhold attorney work product, but it does seem to me
9 that there's nothing to prevent them, if they choose to
10 do so, from turning over attorney work product and
11 maybe they'd be willing to do that in this case so that
12 we don't have to kind of figure out whether the Rhode
13 Island rule is still a good rule even though it's 20
14 years old.

15 Would you, would they be willing to do that, to
16 turn the whole file over to Mr. Olen?

17 MR. GERSTEIN: Well, the difficulty, your Honor,
18 and I would certainly speak with them in more detail
19 about that, the research that I have done with respect
20 to the work product privilege indicates to me that the
21 privilege in fact belongs to the attorney. Although,
22 you know, the client might be willing to waive the
23 so-called work product privilege, ultimately, it's up
24 to the attorney to make that decision.

25 One of the difficulties with respect to

1 producing the file is, quite frankly, as the Court I'm
2 sure is well aware, the file is quite huge and it's a
3 very time-consuming task to go through the file and
4 determine what is work product, what is not work
5 product, whether there is anything in the file as often
6 happens with large files that is misfiled and relates
7 to another case. So it's really not a simple process
8 of, okay, here's a bunch of CDs or here's a bunch of
9 disks or here's a copy of the hard drive. That I know
10 my clients are not willing to do, just make a copy of a
11 hard drive and turn it over without having the time to
12 go through and review what it is that they're turning
13 over.

14 So I might not be directly answering your
15 question.

16 THE COURT: Well, maybe a way around this is to
17 simply make the file available to counsel for review
18 under some kind of protective order that ensures that
19 if somehow a piece of paper was misfiled in there that
20 belonged to another case or something, that they would
21 not look at it and they would -- that way, you wouldn't
22 have to copy everything. Maybe there's a way to do it
23 that would kind of cut through all this because I don't
24 want this to become a side show to this motion and
25 that's what I'm afraid is going to happen.

1 So as you say, it's the attorney's right to
2 assert the attorney work product privilege, but if the
3 attorney doesn't choose to exercise that privilege,
4 then simply the whole file could be either turned over
5 or made available for inspection. There's a real
6 question, which I'm going to get to later with these
7 other folks, as to whether any of this is relevant to
8 this motion or would be relevant to this motion, but
9 it's hard to know that without giving them some access.

10 You know, they have to show that there's some
11 link to the decision of Mr. Caramadre to plead guilty,
12 and we're going to get to that with them. But in terms
13 of facilitating this inspection of the file, I'm just
14 wondering if Mr. Traini and Mr. Lepizzera would agree
15 not to invoke the work product privilege, would make
16 the whole file available and we could kind of expedite
17 this.

18 MR. GERSTEIN: Well, I can certainly speak with
19 them and let them know the Court's thoughts. I just
20 don't think as I stand here at the podium right now I
21 can, you know, commit to any position because what I
22 see happening with what I call this expansion or
23 fishing expedition is changing dramatically the nature
24 of the hearing before the Court and, you know, quite
25 frankly, from reading the papers filed by the

1 Defendant, from reading the Court's decision, from
2 reading the Government's responsive papers, it was my
3 understanding and my client's understanding that with
4 respect to these allegations of ineffective assistance
5 of counsel they had been defined with some specificity
6 with respect to certain areas; and even though the
7 Court indicated that the waiver of the privilege is
8 essentially co-terminus with the representation, the
9 Court seemed to focus on the particular allegations
10 that were made on behalf of Mr. Caramadre and that is
11 what my clients have spent a fair amount of time
12 gathering information, providing information to both
13 the Defendant and the Government and to the Government
14 with the consent of the Defendant and now the door is
15 sort of being opened to what happened on day one, what
16 happened on day two, which is, you know, a totally
17 different manner of preparation and examination and the
18 course of the hearing before the Court. I understand
19 you're the decision maker, but, again, I will speak
20 with them and I can get back to you.

21 THE COURT: I totally understand where you and
22 where they are coming from. I don't think that
23 actually where you're coming from is very different
24 than how I see the case. You haven't been present in
25 the chambers conferences I've had with counsel, but

1 I've let Mr. Olen and Mr. Watt know pretty clearly that
2 I have no intention of opening this thing up into a
3 2255 kind of proceeding on ineffective assistance of
4 counsel. That's not what it's about.

5 There is law, though, that says pretty clearly
6 that if a defendant pleads guilty as a result of
7 ineffective assistance of counsel, so, for example, in
8 response to bad advice to take a plea where a defendant
9 shouldn't have taken a plea or where a defendant has
10 felt so overwhelmed by the ineffective assistance that
11 he felt compelled to plead guilty in order to avoid a
12 bad outcome, that that can be grounds for a withdraw of
13 a plea of guilty.

14 Now, I'm not in any way suggesting that that's
15 the case here, but as I've told counsel, I don't know
16 what the evidence is going to be from the Defendant
17 about these matters so it might be that they don't meet
18 that burden and we never get to what's in that file.
19 But on the possibility that there will be evidence
20 suggesting that that's why Mr. Caramadre pled guilty,
21 then opening up the whole file could possibly be
22 relevant to that inquiry. And that's where Defendants
23 are -- that's what they're trying to claim here.

24 So what I'm trying to do is just facilitate
25 things a little bit. I'm not saying the rest of the

1 file would be relevant; but if at the end of today they
2 persuaded me that it is relevant, I'd like to have you
3 and Mr. Traini, Mr. Lepizzera have already considered
4 this possibility of just making the file available.
5 That's what I'm trying to get at.

6 MR. GERSTEIN: I certainly appreciate it and I
7 will speak with Mr. Traini and Mr. Lepizzera. Again,
8 there's going to be, I can assure the Court, there's
9 probably going to be some sort of a timing factor. But
10 I would also comment that Mr. Caramadre who is sitting
11 in court, who has filed papers, his papers and made the
12 allegations knows exactly what it is that he's going to
13 tell the Court to try to get over this hurdle in terms
14 of having his plea vacated. And the Court, even though
15 I can't examine Mr. Traini and Mr. Lepizzera, the Court
16 will also have the opportunity to hear from them with
17 respect to the areas and issues that Mr. Caramadre has
18 identified as the basis for his motion; and it may well
19 be that after the Court hears that, the Court will
20 decide or at that point in time might be more prudent
21 to make a decision as to whether the entire file has to
22 be opened and the course of the hearings modified and
23 the issues of privilege addressed. Because if
24 Mr. Traini and Mr. Lepizzera agree to waive the work
25 product privilege for this hearing, it's waived for all

1 time and for all purposes and it's nothing that can be
2 called back, and Mr. Caramadre has already made plain
3 his future plans with respect to further attacks on
4 Mr. Lepizzera and Mr. Traini.

5 THE COURT: I'm in total agreement with what
6 you're saying. We're going to cross that bridge at the
7 end of the day, so we'll see where we are at the end of
8 the day.

9 MR. GERSTEIN: I'll speak with my clients at
10 some point.

11 THE COURT: Thank you, Mr. Gerstein.

12 All right. Now, Mr. Olen you wanted to be heard
13 on the record with respect to your request for
14 additional time, which I've denied informally. You go
15 ahead.

16 MR. OLEN: Yes, your Honor. I just want to put
17 on the record that we filed a motion to continue this
18 case. We need more time, quite frankly. We don't
19 believe we've been given enough time to go through
20 the -- let me say --

21 THE COURT: Let's get a few things out on the
22 record, first of all. When was the plea entered?

23 MR. OLEN: November 19th.

24 THE COURT: Okay. And when did you file your
25 first filing with the Court suggesting that you were

1 considering a motion to withdraw the plea?

2 MR. OLEN: I believe it was January 10th or
3 January 11th.

4 THE COURT: How much time did you ask for when
5 you came in to meet with me?

6 MR. OLEN: To submit my memorandum? I really
7 don't recall, your Honor. I forget. I did ask for
8 some time to submit the memorandum. Submitting my
9 opening memorandum in the motion to withdraw, I never
10 asked for time to actually prepare the hearing.

11 THE COURT: You asked for a month.

12 MR. OLEN: To file the motion, to file a memo,
13 Judge, but not to prepare for the hearing.

14 Your Honor, on February 7th, I received from
15 Mr. Lepizzera a hard drive which contains 350,000
16 documents. And I believe that in order to prepare this
17 case properly, I'm not saying I have to read every tax
18 return or everything that's in there, but I certainly
19 need more time to prepare this case than how ever long
20 we've had since we filed the motion. I've only had
21 their file for two months; and in fact, as it turns
22 out, I don't even have their file. I received a -- in
23 the letter that came along with the disk on February
24 7th, the cover letter from Mr. Lepizzera said here is
25 the file. Well, it wasn't the file. It was part of

1 the file.

2 With respect to the time involved, Judge, I
3 asked Mr. Watt to assist me on this case because it
4 became clear to me once I got that hard drive that
5 there was no way that we could properly prepare for a
6 hearing without assistance. Mr. Watt's time has been
7 limited for personal reasons as we indicated to you in
8 our previous discussions.

9 In addition to just the general necessity for
10 more time to go through all these documents and prepare
11 witnesses and prepare cross-examination, we now find
12 out that we don't even have everything in the file that
13 we need. And I won't -- we're agreeable to the Court's
14 suggestion to Mr. Gerstein to let us view the file
15 under some kind of a protective order so I won't go
16 into that as deeply as I would otherwise go into it,
17 but I do want to note that Mr. Gerstein's last
18 suggestion that perhaps we could proceed with the
19 examination of the attorneys before we decide whether
20 or not we can see the file is absurd, your Honor. We
21 need those documents in order to prepare the
22 cross-examination. Out of the 350,000 pages of
23 documents, your Honor, I don't have one piece of paper
24 with a note of an interview. The trial notebook is
25 referred to in the e-mails. That's missing. We need

1 these materials. We need to review these materials in
2 order to properly present Mr. Caramadre's case.

3 THE COURT: Well, what I told you in chambers
4 I'll tell you again, which I was not going to postpone
5 the hearing that we had scheduled today and I would
6 take up the issue of whether we would continue this
7 matter to another date beyond today after we get
8 through with taking of evidence today but that I was
9 not going to lose a day that I had set aside. It seems
10 to me that you've had plenty of opportunity to prepare
11 Mr. Caramadre for his testimony. He says you say in
12 your papers that he immediately began reconsidering his
13 decision to plead guilty right after he pled and that
14 was November. So it's been four months, and I think
15 it's perfectly appropriate to move forward this
16 morning, this afternoon, and we'll see where we are at
17 the end of the day.

18 MR. OLEN: That's fine, your Honor.

19 THE COURT: All right. So are you ready to go
20 forward?

21 MR. OLEN: Yes, your Honor.

22 THE COURT: This is your motion so you can call
23 your first witness.

24 MR. WATT: Judge, we call Joseph Caramadre.

25 JOSEPH CARAMADRE, first having been duly sworn,

1 testified as follows:

2 THE CLERK: Please state your name and spell
3 your last name for the record.

4 THE WITNESS: Joseph Caramadre,
5 C-A-R-A-M-A-D-R-E.

6 THE COURT: Good morning, Mr. Caramadre.

7 THE WITNESS: Good morning, your Honor.

8 THE COURT: Go ahead, Mr. Watt.

9 MR. WATT: Thank you, Judge.

10 **DIRECT EXAMINATION BY MR. WATT**

11 Q. Where do you live, Mr. Caramadre?

12 A. I live in Cranston, Rhode Island.

13 Q. And what address?

14 A. At 90 Beechwood Drive.

15 Q. And do you know where Mr. Lepizzera lives?

16 A. Yes. He lives a couple blocks down the road on
17 Beechwood Drive.

18 Q. And how long has that relationship of your house
19 to his house been the case?

20 A. Well, probably I would say about ten years that
21 Mr. Lepizzera moved to Beechwood Drive.

22 Q. Can you tell the Court how you're trained and
23 educated.

24 A. Well, I am trained in the field of finance and
25 law. I've got an undergraduate degree from the

1 University of Rhode Island, have a law degree from
2 Suffolk University. I've got various other credentials
3 such as a CPA, CFP, CLU, ChFC.

4 Q. Could you explain those letters on the --

5 A. Yeah. A CPA is a certified public accountant; a
6 CFP is a chartered -- excuse me, certified financial
7 planner, a CLU is a chartered life underwriter, a ChFC
8 is a chartered financial consultant. So I've at least
9 those designations. I may have had more in the past.

10 Q. Married?

11 A. Yes, I'm married.

12 Q. Children?

13 A. Twenty-two years marriage and three children, yes.

14 Q. What are the ages of your children?

15 A. Yes, I have children.

16 Q. How old are they?

17 A. They are 19, 17 and 13.

18 Q. Reside with you?

19 A. Yes, they do.

20 Q. Are you discharging any employment in any of the
21 fields or certifications that you've described to the
22 Court?

23 A. Well, as of July of 2011, my doctors determined
24 that I -- my depression is too severe for me to be
25 functioning as an attorney and financial consultant.

1 Q. So the answer to my question?

2 A. The answer is I have been discharged of
3 employment, yes.

4 Q. As of June of '11?

5 A. As of July 2011.

6 Q. Okay. Which doctors?

7 A. Dr. Lewis Weiner, who's an internist; Dr. Caron
8 Zlotnick, who is a psychologist; and Dr. Sarah Xavier,
9 who is a psychiatrist.

10 Q. And any of those treat you on and after the time
11 of your disengagement from your employments?

12 A. Yes. I've seen Dr. Weiner for five or six years.
13 I've seen Dr. Zlotnick since 2009 so two years before
14 the disability. I saw Dr. James Whalen for 15 years
15 before the disability as a psychiatrist. He recently
16 retired from practice and Dr. Xavier took over in 2011.

17 Q. Are you seeing any of them now?

18 A. Yes. I see Dr. Zlotnick every week as a
19 psychologist. It's part of my probation requirements,
20 which I would normally see her anyway. And I see both
21 Dr. Weiner and Dr. Xavier as needed.

22 Q. Did either Mr. Lepizzera or Mr. Traini, to the
23 best of your knowledge, ever have any contact with
24 either of the doctors, Dr. Zlotnick or Dr. Xavier?

25 A. Yes. Sometime in 2010, Mr. Lepizzera accompanied

1 me to a visit for my psychological therapy with
2 Dr. Zlotnick. The purpose of his exam was to learn how
3 I am managing severe and major depression and how he
4 could be of help to me.

5 Q. And with regards to Dr. Xavier?

6 A. Dr. Xavier? Mr. Lepizzera had at least one
7 lengthy phone call with her in 2012, I believe it was
8 February, and could have spoken to her again between
9 February of 2012 and the start of the trial, which was
10 November of 2012. However, I've been informed that
11 Mr. Lepizzera did go visit her sometime in January
12 2013.

13 Q. And when you say "could have," what do you mean
14 could have? Did he have authorization from you?

15 A. Yes. There was authorization that my doctor is
16 allowed to discuss my condition with my attorney, yes.

17 Q. Can you describe the nature of the conference that
18 he had with Dr. Xavier, how that came to pass in
19 approximately February of 2012?

20 A. Yes. My counsel, Mr. Lepizzera, who was a trusted
21 friend and attorney of mine wanted to speak to
22 Dr. Xavier because I was on so many different
23 medications that it was getting in the way of me
24 thinking clearly or processing information at my normal
25 rate of acuity. So he wanted to speak to her about the

1 medications and what they're doing to me.

2 Q. Do you recall having been here giving a plea
3 before this judge on November 19th, 2012?

4 A. Yes, I do.

5 Q. Do you remember the tendering to the Court of a
6 list of medications.

7 A. Yes.

8 Q. Did you see the typewritten list of medications
9 tendered to the Court?

10 A. Yes, I did.

11 Q. Can you tell the Court how that list was prepared?

12 A. I was asked to prepare it by counsel, and it was
13 on my computer so I printed it.

14 Q. When did you do that?

15 A. Days or hours before the hearing on the 19th.

16 Q. Of November?

17 A. Of November.

18 Q. 2012?

19 A. '12, yes.

20 Q. You described friendship with Mr. Lepizzera. Can
21 you please indicate to the Court when your first
22 acquaintance started with Mr. Lepizzera?

23 A. Well, Mr. Lepizzera and I became acquainted some
24 20 or more years ago when we both were taking the Bar
25 exam. I had known some of Mr. Lepizzera's family since

1 the 1980's. And we became friends and acquaintances
2 since.

3 In the last ten years, we were much closer
4 because we lived in our neighborhood. We attended the
5 same church. Our children played together. Our wives
6 are both Eucharistic ministers at our church, and I
7 actually invited Mr. Lepizzera to join the Men of St.
8 Joseph's Society at our parish so that we could spend
9 more quality time together.

10 Q. What is the Men of St. Joseph's?

11 A. It's an organization where men of Catholic faith
12 get together to really learn about catechism and
13 preaching The Word. It's a devotion to St. Joseph.

14 Q. How long have you been connected with the Men of
15 St. Joseph's through your church?

16 A. Well, our church was a late-starter as an
17 affiliate parish so maybe in total three-and-a-half
18 years. That was the inception. And about a year
19 later, I asked Mike to join the group.

20 Q. Are you still a member of the Men of St. Joseph's?

21 A. Yes, I am.

22 Q. Is Mike?

23 A. Yes, to my knowledge.

24 Q. And can you tell the Court approximately what
25 frequency is it that the Men of St. Joseph's met during

1 the calendar year of 2012?

2 A. Yes. During 2012, we meet once a month on
3 Saturday morning for a Mass or Rosary and then a
4 discussion period, and one time during the month on a
5 weeknight so it's approximately two times a month.

6 Q. In addition to your activities at the Men of St.
7 Joseph's, can you indicate whether or not you attended
8 religious services together?

9 A. Yes. Michael Lepizzera and his family would
10 generally be at the same Mass my family would be at
11 almost every Sunday morning. And we also would see
12 each other at different functions, Holy Days of
13 Obligation. At times I would see Michael Lepizzera at
14 morning daily Mass. I've been there usually every day
15 and every once in a while a fellow member of the Men of
16 St. Joseph's joins me.

17 Q. Moving away from religious and moving towards
18 social activities, did you ever socialize or did your
19 family socialize, that being yours and Mr. Lepizzera?

20 A. Yes. There was many occasions where Mr. Lepizzera
21 and his son or daughter or wife would be at our home.
22 There were times we would visit them at their home,
23 whether it was using the poolside or winter there would
24 be many occasions that I would invite Mr. Lepizzera and
25 his son over to watch a football game at one of our

1 homes.

2 Q. How many homes was that?

3 A. There were two at the time. We had a lakefront
4 property, which had a theater, which made it exciting
5 to watch football games, so I would invite Michael and
6 his son, Mr. Lepizzera and his son to enjoy the
7 football games on the big screen.

8 Q. The medications that you turned in to the Court
9 through counsel on November 19th, how long a period of
10 time had it been that those medications in those
11 dosages had been taken prior to the giving of the plea
12 on November 19th?

13 A. Well, my doctors have tried for over 20 years to
14 give me a suitable cocktail of medicines that would
15 work to overcome severe and major depression, which
16 I've suffered for all these years. You asked me how
17 long did I take them. Well, some may have been in
18 place for years; others could have been moved in months
19 before. I believe on the list we had given Judge Smith
20 that one of them was cancelled in October of 2012.
21 Even since that list, we have retired some medications
22 and added new medications.

23 Q. Okay. Did you ever fail to take the medications
24 as prescribed during the course of time 2012 right
25 through the giving of the plea?

1 A. No. I'm very meticulous about counting all seven,
2 eight, nine, ten pills every morning or evening when I
3 have to take them. I know that if I don't take them as
4 prescribed, it will create a tremendous imbalance for
5 me.

6 Q. As it relates to representation of a legal nature
7 by Mr. Lepizzera of you, did there come a time when
8 that started?

9 A. Yes. In 2010, Mr. Lepizzera and I discussed this
10 case and we agreed, whether it be by me asking him or
11 he offering his services, I was very happy to take
12 Mr. Lepizzera on as an attorney. He offered something
13 that almost no one else offered, which was an insight
14 to our religious similar faith. He knew me more as a
15 church-goer, person of faith than as just a defendant.
16 And I have a tremendous amount of respect for
17 Mr. Lepizzera and his faith.

18 Q. Can you tell the Court whether or not that was a
19 paid relationship, you to him?

20 A. Yes. I paid Mr. Lepizzera for his services. I
21 believe he was fair with his billing and would present
22 a bill that we would discuss and agree to a sum every
23 so often.

24 Q. Was there any fee agreement as such, retention
25 agreement between you and Mr. Lepizzera?

1 A. There was no retainer. There came a point in time
2 that both for the benefit of myself and Mr. Lepizzera,
3 we agreed that I would pay him \$25,000 a month
4 indefinitely. So that if he put in more hours, he
5 would be getting paid less; and if he put in less
6 hours, he'd be getting paid more. But we both could
7 agree that that was a fair amount of money for
8 Mr. Lepizzera, and it was somewhat affordable for me.

9 Q. Okay. At that time?

10 A. Yes.

11 Q. Can you tell the Court when it went to that
12 \$25,000 a month?

13 A. I'd say maybe right at the time of the indictment
14 in late 2011.

15 Q. Now, at some point, did you have any co-counsel
16 working with Mr. Lepizzera on this case?

17 A. Yes. At one point, at Mr. Lepizzera's insistence
18 that we have new counsel join our team so as to give
19 him some additional support and possibly some more
20 experience. We engaged Attorney James McCormick
21 sometime in January 2012.

22 Q. And Mr. McCormick continued in a co-counsel
23 relationship with Mr. Lepizzera up until what point?

24 A. Until about late May or early June 2012.

25 Q. Was that a paid relationship?

1 A. Yes. It was paid, and it was my decision that
2 Mr. McCormick was not fitting the need that we needed
3 in a co-counsel. So we left on very amicable terms.

4 Q. Can you tell the Court what you did, if anything,
5 to replace Mr. McCormick?

6 A. Yes. We started a search for a senior attorney.
7 Michael Lepizzera felt that he needed someone with a
8 little bit more experience than him, although I believe
9 he was an excellent attorney. And we went on to
10 interview different attorneys to determine, number one,
11 if they had a conflict potentially representing me;
12 number two, what was the potential affordability of
13 such attorneys.

14 Q. Were there a number of attorneys that you
15 considered?

16 A. Yes. There were a number that we considered. And
17 there was even a point where I was considering asking
18 for court-appointed counsel because we could not afford
19 the large six- or seven-figure retainers that attorneys
20 wanted.

21 Q. Can you tell the Court how it came to pass that
22 Mr. Traini became involved in your representation?

23 A. Well, after seeing various attorneys,
24 Mr. Lepizzera recommended to me that we should consider
25 Mr. Traini. I had known Mr. Traini because he

1 represents Edward Maggiacomo who worked in my office
2 and was able to secure a non-prosecution agreement for
3 Ed Maggiacomo. I also knew him that he was an attorney
4 as part of the defendants in the civil lawsuits. So I
5 had known Mr. Traini maybe for two-and-a-half years at
6 that point.

7 Mr. Lepizzera recommended that we -- that I give
8 Mr. Traini an opportunity to sell his services, if you
9 will.

10 Q. And did that opportunity occur?

11 A. Yes. It happened in June of 2012.

12 Q. Can you describe the nature of the opportunity?

13 A. Well, the opportunity was we needed someone with
14 gray hair, someone who had more experience than Mike
15 did; and Mr. Traini came to my home for a meeting that
16 took an hour or two to describe what he can do for me.

17 Q. Can you describe the nature of the description?

18 A. Yes. Mr. Traini made it clear that this is
19 normally a million dollar fee that he charges, but
20 given the light that he had already researched most of
21 this defending Mr. Maggiacomo and since we were
22 Co-Defendants, he was researching the same side of this
23 case, that he would accept a half a million dollars as
24 a maximum cost to defend me. Part of what
25 Mr. Lepizzera and I were doing were asking attorneys

1 what is the highest exposure we could have in your
2 representation. For instance --

3 Q. Monetarily?

4 A. Monetarily. Mr. McCormick, we had an agreement
5 that said he will charge \$200 an hour and a maximum of
6 \$300,000 that goes right through trial and appeals.
7 That was the only way I could know to retain an
8 attorney because I had been liquidating assets and
9 earning no money since 2009.

10 So with Mr. Traini, he wanted a half million
11 dollars. He explained to me that I'm his best shot
12 because he knows the case. The Government will fear
13 him and all this. He also said that if I cared about
14 Mike Lepizzera, I should hire him because some years
15 ago Mike almost had a heart attack being junior counsel
16 with Tony Traini on a case, something I did not know.
17 I certainly care about Mike Lepizzera, but that would
18 be another reason.

19 My concern at that meeting was a maximum
20 exposure. And I asked Mr. Traini and explained to him
21 I am borrowing this money from family members, it's
22 money that's not available to me. And I need to know
23 that we get presented with another six figure bill at
24 some point that this is all that can be there. And he
25 assured me that this is the maximum exposure through

1 appeals.

2 Q. Maximum exposure being what?

3 A. That \$500,000.

4 Q. Continue, please.

5 A. Okay. I was very adamant about that because I
6 could not be caught, if I were convicted and I need to
7 come up with six figures for an appeal at that point.
8 So I would not have the money. Mr. Traini assured me
9 this would be the maximum exposure and we -- and he
10 said he would take up the details with Mr. Lepizzera.

11 One of the things that was peculiar was that he
12 demanded all \$500,000 be put up-front because he was
13 sure that the Government would move immediately to
14 forfeit my assets as soon as he entered his name.

15 Now, the Government had not moved for forfeiture
16 even during the indictment process, and I was convinced
17 they would not. I actually told him just because you
18 enter your name is not going to change the Government's
19 position. But he said it all has to be there in Mike
20 Lepizzera's account because he doesn't want to be
21 working for free.

22 Q. I take it that Mr. Lepizzera was not at this
23 meeting at your house?

24 A. No, he was not.

25 Q. Subsequent to that meeting, did you obtain money?

1 A. Yes. I wrote various e-mails to Mike Lepizzera
2 saying that all I have is \$450,000. I would have
3 offered \$250,000 directly and then another \$250,000 in
4 two months when I could liquidate some assets with less
5 penalties. It ended up that I agreed with Mr. Traini
6 that the figure be 450,000 as long as it all could be
7 put in up front. So we split the difference as far as
8 penalties and so forth.

9 Q. Did Mr. Lepizzera fashion a method of payment that
10 was satisfactory to you?

11 A. Mr. Lepizzera assured myself, my wife and anyone
12 else who would listen that he was protecting my assets.
13 It was his responsibility to make sure he would stagger
14 the payments to Mr. Traini over the time that we expect
15 the trial and/or appeals, which would have run from
16 June through the end of February.

17 Q. Of 2013?

18 A. Yes.

19 Q. Now, to your knowledge in the summer of 2012, was
20 that agreement reduced to written form?

21 A. Well, I have acquired knowledge since. I knew
22 there was a retainer agreement that Mr. Lepizzera had
23 told me he entered into. He did assure me that he got
24 Mr. Traini to agree to stagger the 450,000 over nine
25 months at 50,000 a month, which was very important to

1 me.

2 Q. Okay. What form is it that that retainer
3 agreement would have taken, written or verbal?

4 A. Well, I believe that Mr. Lepizzera had pointed out
5 to me that he did reach agreement with Mr. Traini on
6 staggering the payments and so forth.

7 Q. In written or verbal form?

8 A. No. In a written form. This was a lot of money
9 and it just can't be dealt -- obviously, there's parol
10 evidence -- excuse me, statute of frauds that require
11 it in writing.

12 Q. Did you ever get a copy of that writing?

13 A. No. I relied a hundred percent on Mr. Lepizzera
14 who I trusted and I believed was working in my best
15 interest.

16 Q. Did you ever see a copy of that agreement,
17 so-called?

18 A. Yes. I saw a copy in late December when I
19 demanded a copy of the retainer agreement and the
20 disbursements that were made to Mr. Traini from that
21 escrow amount.

22 Q. You received that from whom?

23 A. From Mr. Lepizzera.

24 Q. When you saw that agreement, was there anything
25 there that surprised you?

1 **A.** Yes. Number one, it read it was a non-refundable
2 fee, which was very shocking because if it was
3 non-refundable and the amount in escrow is all payable
4 to the attorney upon early cessation of the
5 proceedings, then in theory, I could have dropped dead
6 the next day after depositing this 450 and Mr. Traini
7 would have been entitled to the whole 450.

8 Conversely, if the Government decided not to
9 bring their case, or if I made a plea agreement,
10 whether it's days, weeks or months, the way that read
11 he's entitled to all the money. Something I would have
12 been adamantly opposed to since I was borrowing the
13 money to begin with. In order to go through this
14 process of staggering over nine or ten months, the
15 whole goal there was to allocate fee for service over
16 time.

17 **Q.** Would knowledge of the contents of that writing
18 have influenced your decision making in the week
19 leading up to the giving of the plea before Judge Smith
20 on November 19th, 2012?

21 **A.** Well, if you're asking me if I knew that
22 Mr. Traini was going to drain 150 or \$200,000 that I
23 believe was unearned upon me signing a plea, it may
24 very well would have influenced my decision in pleaing
25 guilty.

1 Q. That was my question. Would it have; and if so,
2 how?

3 A. Yes. Because if an attorney fails to disclose to
4 their client who is under considerable duress already
5 that they stand to gain a windfall of 150 or 200,000, I
6 should at least have known that so that I can give
7 proper weight to veracity and credibility of my
8 lawyer's recommendation to take a plea.

9 Q. In the pre-Traini period, what was the nature of
10 the preparation in terms of defense of the Government's
11 indictment?

12 A. In the pre-Traini period, Mr. Lepizzera worked
13 endlessly to learn the facts, identify the witnesses,
14 the players involved, the actions of Raymour
15 Radhakrishnan, the unindicted co-conspirators and so
16 forth. Mr. Lepizzera did a lot of work on this.

17 Q. How frequently would you have contact with
18 Mr. Lepizzera?

19 A. I would say usually every other day. It would be
20 a surprise if a week went by that we didn't discuss
21 some detail about the case.

22 Q. About the case. As opposed to social or as
23 opposed to religious, right?

24 A. No. About the case.

25 Q. Did that change in terms of Mr. Lepizzera's

1 interactions with you after Mr. Traini came on board?

2 A. Well, upon Mr. Traini coming on board, he sort of
3 set up new rules that I should only be talking to them
4 at either weekly or biweekly meetings or whenever they
5 call a meeting and let the attorneys do their work.
6 And I was comfortable if Mike Lepizzera was comfortable
7 that work is getting done and we're heading toward a
8 conclusion to defend this case.

9 Q. And with regards to the defense of this case,
10 prior to Mr. Traini, what was the theory of defense, if
11 any?

12 A. Well, prior to Mr. Traini, the defense was very
13 simple. All we need to do is expose the truth. The
14 truth that I had no knowledge of the actions that
15 Mr. Radhakrishnan had with the measuring lives; the
16 truth that I expected everything done to be right; that
17 I would never tolerate forgery or misrepresentation,
18 and the truth would set us free. I said that from day
19 one.

20 And whether Mr. Radhakrishnan committed a crime
21 or not, which I don't believe he did, he was sloppy on
22 some work and it really comes down to his age at this
23 point. However, the truth is clearly there was never a
24 conspiracy. There was never -- I had gotten legal
25 opinions on what I did long before I did it, and so get

1 the truth out.

2 Q. Okay. And at any point in time pre-Traini, did
3 Mr. Lepizzera profess a belief or not in the issue of
4 your innocence?

5 A. Well, Mr. Lepizzera had mentioned to many, many
6 people, both in the Men of St. Joseph's group, at my
7 home with relatives, even talking to my own mother that
8 I'm an innocent man and when we get to court we'll be
9 able to prove this. And it was -- he has spoken to
10 priests that we know. He's spoken to professionals
11 that are at my house. There'd be many a time I'd get a
12 call from a colleague attorney that says, hey, I ran
13 into Mike Lepizzera, I want to wish you well. He
14 explained to us you're completely innocent. We hope
15 you can get through this.

16 Q. Mr. Traini came on board?

17 A. Yes.

18 Q. In July, was there any specific e-mail
19 communication to you from Mr. Lepizzera relating to his
20 posture as how he perceived the case and the defense
21 thereof?

22 A. Yes. Mr. Lepizzera had gone on a mission with our
23 church, which I was very proud of Mr. Lepizzera to be
24 an adult chaperone on this religious mission in
25 Jamaica. But he had come back, and he said, Okay, now

1 all the mission is over, we are now going to cast an
2 aggressive campaign to confront the Government of all
3 these false charges. We are now getting ready to mount
4 this campaign, if you will.

5 Q. Are there civil cases that are tangents or
6 adjuncts to this case outside the criminal arena?

7 A. Yes. There are seven civil lawsuits that are
8 pending in front of this Court, and there are different
9 variations of either stays or other activity going on
10 in them.

11 Q. Mr. Lepizzera have anything to do with those?

12 A. Not directly. I asked Mr. Lepizzera to go to a
13 couple of the chambers hearings that Judge Smith held
14 because he was representing me on the criminal matter.
15 He may have wanted to get educated about what was going
16 on on the civil matter.

17 Q. What was your understanding after Mr. Traini came
18 on board with respect to the frequency of defense
19 attorney meetings, if any?

20 A. Well, I was told that they should be meeting
21 weekly and I would be invited in either weekly or every
22 other week or every three weeks when they need to
23 inform me of things.

24 Q. Did Mr. Lepizzera have anyone else in his office
25 that was involved in any way in the criminal defense

1 case?

2 A. Yes. Attorney Scott DeMello was Mr. Lepizzera's
3 assistant, who was also attempting to be very
4 cooperative, too.

5 Q. What was the nature of your relationship, if any,
6 to Mr. DeMello?

7 A. Well, I knew Mr. DeMello. I believe he Mike and I
8 all took the Bar together in the early 1990's.

9 Q. Never practiced with him, you?

10 A. No.

11 Q. Did you ever make any requests of Mr. Lepizzera
12 prior to Mr. Traini with regards to what you were
13 requesting be done specifically as to any aspect of
14 this criminal defense?

15 A. Well, at times I would ask Michael Lepizzera for a
16 global defense plan. And it became somewhat convoluted
17 or gray area because we had retained Mr. McCormick,
18 who, as an experienced criminal defense counsel,
19 recommended we get a private investigator to start
20 getting some truth and some real evidence about these
21 witnesses.

22 Q. In what fashion, Mr. Caramadre?

23 A. Well, to interview them, to establish why do they
24 believe -- why are they testifying? Why do they think
25 they're harmed? What was sent to them by the

1 Government to assuage them to believe they've been
2 harmed when beforehand they were very happy with our
3 arrangement.

4 Q. After that request for private investigators, to
5 your knowledge during the balance of this case, was a
6 private investigator ever retained in any aspect of the
7 defense?

8 A. To my knowledge, no. I specifically asked on at
9 least one or two e-mails, can we please get a private
10 investigator as soon as possible to get some real
11 evidence in our favor. As the Government is preparing
12 their witnesses, we should be determining what the
13 evidence really is.

14 Q. Can you tell the Court whether or not there were
15 any expert witnesses, so-called, ever employed by the
16 defense?

17 A. To my knowledge, no. There was talk that we
18 needed an expert witness to speak about annuities and
19 corporate bonds, to speak to the fact that it's
20 completely legal and this is a process that's allowed
21 by the prospectus of the bond or the prospectus of the
22 variable annuity.

23 Q. Were there allegations in the indictment that
24 related to forging of signatures?

25 A. Yes, there were.

1 Q. Was there any discussion in terms of getting a
2 handwriting expert on board?

3 A. I had asked and was told since I was not directly
4 involved with ascertaining the signatures that it was
5 really Raymour's problem. I never met the people which
6 the Government charged with Raymour and I with forging
7 their signatures. So they basically said we don't have
8 to go through with this. It's not your battle.

9 Q. That being Raymour Radhakrishnan, the
10 Co-Defendant?

11 A. Yes.

12 Q. Did you ever specifically, at least in terms of
13 e-mails that you could find, a request of the
14 Lepizzera/Traini defense team, the theory of defense?

15 A. Yes. Weeks before the trial, I wrote a letter.
16 Because I suffer from severe depression, I need to know
17 what's going on, and I urged them to give me a status
18 and what is our general game plan for defense. What
19 are we working on? How do we get this truth out? And
20 I never really got a clear response. You know, there
21 were a lot of moving parts getting ready for this
22 thing. It seems like there was much more time spent
23 worrying about what the penalty of each count is than
24 what the real evidence is.

25 Q. Stop you there, if I could. In terms of what the

1 penalty may be for the various offenses alleged in the
2 indictment, was there communication to you from your
3 attorneys?

4 A. Well, yes. They tried to explain to me that
5 they're going to make a motion or agree with the
6 Government or have the Court agree that every count
7 only carries \$250,000 penalty and there is some
8 contrast to some statutory maximum. To me it was
9 basically irrelevant. It would have been a very high
10 amount to begin with, something I wouldn't be able to
11 afford. And all I wanted to do was bring forth defense
12 evidence so that we don't have to deal with --

13 Q. Did they seek your permission to speak to the
14 Government in terms of initiating plea bargain
15 discussions?

16 A. Absolutely.

17 Q. When did that request come of you from them?

18 A. Well, first of all, before Mr. Traini got on
19 board, Mr. Lepizzera at least attempted to speak to me
20 about the benefits of a plea, that it would save a lot
21 of duress on the family and that he had told me many
22 times that it wouldn't change his opinion of me one bit
23 if I were a guilty person because he knows I'm innocent
24 and maybe it would save the family resources and the
25 family itself for me to plead guilty. I summarily

1 dismissed any such thought.

2 When Mr. Traini got on board, there was a lot of
3 pressure put on me to consider a plea. I remember one
4 meeting that went on for maybe two hours where
5 Mr. Traini pleaded with me, with both Mr. Lepizzera and
6 Mr. DeMello at this meeting, that if he can do the
7 impossible and get me a plea with no time, would I take
8 it. And I said absolutely not because I'd have to
9 admit to something I didn't do and would never do. I
10 would never hurt the terminally ill poor that I have
11 spent so much time working with charities over 25
12 years. So I'm not about to admit something I didn't
13 do.

14 It was put to me in probably a 10 or 13 page
15 memo that I understand that if the Government is
16 successful in proving this I may get life in prison and
17 I am waiving or ordering my attorneys not to engage in
18 any plea discussions.

19 Q. You had the option at the end of that particular
20 document to indicate authorization to initiate or not?

21 A. That's correct. And I elected --

22 Q. You signed it?

23 A. I elected in September of 2012 that I am not
24 authorizing my attorneys to enter into any plea
25 negotiations where I would have to plead guilty.

1 Q. During this course of time, were you reporting to
2 the Probation Department as directed?

3 A. Yes. I hopefully have had a stellar record of
4 reporting to probation every week by telephone, the
5 first Monday of each month in person, tolerating spot
6 visits by the probation officer and letting them know
7 if there are any changes of anything material.

8 Q. The condition of you continuing with psychiatric
9 treatment with Dr. Zlotnick, was that maintained by
10 you?

11 A. Yes. Absolutely. That was part of the probation
12 order by this Court, and I was going to voluntarily see
13 my doctor every week anyway, as I had for many years.

14 Q. Now, leading up to the trial, so-called, in the
15 week preceding the trial, did you meet with the
16 attorneys?

17 A. Well, the trial started on Tuesday, November 13th.
18 I have reason to believe we might have met that week
19 before. I had spent so much time with Michael
20 Lepizzera taking so many different notes and answering
21 so many questions on various measuring lives, their
22 family, how did we get acquainted with them, where are
23 the checks we gave them that Mr. Lepizzera had a very,
24 very good handle. I was quite impressed with his
25 ability to retain. If you picked out a name of 300

1 witnesses that the FBI visited and gave us a 302
2 report, he would know exactly what they said and when
3 and how to defend it or what was wrong with it.

4 Q. Besides the FBI 302s, were there video depositions
5 that had been allowed by the Court?

6 A. Yes. Yes. There were six or seven video
7 depositions. There was already Grand Jury testimony
8 which ran quite voluminous, as the Grand Jury process
9 was almost -- I believe it's maximum of two years.

10 Q. Who conducted those depositions?

11 A. The depositions, the Government was bringing these
12 depositions and Mr. Flanders was my initial attorney at
13 the time, Robert Flanders; and Mr. Pine, Jeffrey Pine
14 was the defense attorney for Raymour.

15 Q. Civilly?

16 A. No. The defense attorney for criminal, criminal
17 issues. So on these depositions they were authorized
18 by the Court in 2009, Mr. Flanders and Mr. Pine took
19 the major part of the defense. At the time, we were
20 not formally charged. We did not know what we might be
21 charged with and so we were at a bit of a disadvantage,
22 but I believe my attorneys just did the best they could
23 with what was presented by the Government.

24 Q. Could you tell the Court whether or not to your
25 knowledge, and you may not have it, but were Mr. Pine's

1 or Mr. Flanders' files requested or turned over to
2 Mr. Lepizzera or Mr. Traini at any point in time?

3 A. Yes. As soon as Mr. Lepizzera replaced
4 Mr. Flanders as criminal counsel, all the files were
5 delivered within days.

6 Q. Your expectation then in the week leading up to
7 the trial was -- how was the defense going to be
8 conducted in those initial stages?

9 A. My expectation was what I had expected over
10 three-and-a-half years of the Government pursuing me,
11 which was we would present a rigorous defense that
12 would leave no doubt at all about my participation,
13 criminal or otherwise in this process, that I had no
14 criminal exposure, no criminal intent. And the best
15 way to do that would be to confront the Government
16 witnesses as Mr. Lepizzera had wrote to me in June
17 of -- July of 2012 that he understands his mission is
18 now to confront this.

19 Q. What was your expectation as to how that was going
20 to unfold in the initial stages of the trial?

21 A. Well, my expectation was that my attorneys would
22 give a very aggressive posture in cross-examination and
23 be extremely aggressive in trying to expose this whole
24 investigation and this whole case. It was very
25 important -- this case may not be unique but should be

1 one of few where no one had ever complained to any law
2 enforcement. None of the so-called victims ever knew
3 they were victimized until the FBI went over to them
4 and gave them, in my opinion, very misleading
5 information so as to turn something that was a good and
6 favorable experience into a very bad experience.

7 Q. Do you suggest by your previous answer that they
8 were victimized?

9 A. They were victimized, yes, by the Government.

10 Q. Prior to the trial, was there any meeting at your
11 home?

12 A. Yes. Prior to the trial -- well, on the Sunday
13 before the trial, which would have been the 11th of
14 November, we had a celebratory Mass at our home. For
15 our intentions of getting to the truth, we had a
16 priest, a dear friend of our family come over to say
17 Mass with our family and supporter close friends.

18 Q. That priest was whom?

19 A. Father Robert Lacombe.

20 Q. Is he in the courtroom today?

21 A. Yes.

22 Q. Can you tell the Court who was in attendance at
23 this celebratory Mass in your home on the day of
24 November 11th?

25 A. A lot of my extended family members and siblings

1 and close friends of the family. Also, I had invited
2 my three attorneys, Mr. Lepizzera, Traini and DeMello
3 to come.

4 Q. Did any of the three attend?

5 A. Yes. Mr. Lepizzera attended, and I was very happy
6 that he did.

7 Q. Did Mr. Lepizzera participate in conversations
8 that you heard relating to the case, its defense, its
9 theory, anything of that sort?

10 A. No. There were maybe 25, 30 people at the home.
11 We just got done celebrating Mass, people having
12 coffee. Mr. Lepizzera tended to leave quickly. He
13 needed to prepare for trial, which I understood. So I
14 didn't discuss with him anything at that point.

15 Q. Monday, holiday? After the Mass it was a holiday?

16 A. Yes.

17 Q. Did you meet with Mr. Traini, Mr. Lepizzera,
18 Mr. DeMello on that date?

19 A. I can't remember if I met with them. If I did, it
20 was for a very short period of time and for nothing of
21 substance. I'm going to say that I believe I did not
22 meet with them.

23 Q. The trial started Tuesday?

24 A. That's correct.

25 Q. Okay. Can you just describe in terms of your best

1 memory your recollection of what happened on Tuesday?

2 A. Okay. On Tuesday, the Court gave instructions to
3 the jury. The Government gave an opening statement
4 that went on almost for an hour with very disparaging
5 allegations about the two Defendants, myself and
6 Mr. Radhakrishnan. And then the first witness was a
7 videotaped deposition of Mr. Richard Wiley. In that
8 deposition, there was direct examination and there was
9 cross-examination. Mr. Wiley is since dead, so it's
10 hard to give him cross-examination or further discover
11 the facts.

12 Given that the Government was very disparaging
13 in their characterization of me and my actions and the
14 fact that we did not have an opening statement, we
15 looked forward with great anticipation for Wednesday,
16 because on Wednesday we would have our first
17 opportunity at a live witness, which can be
18 cross-examined. And Mr. Lepizzera made it clear
19 there's nothing we really could have done on Tuesday.
20 There was no opening statement. You can't
21 cross-examine a video deposition, but tomorrow, being
22 Wednesday, we have Ed Rodriguez on the stand. We get
23 to put our game plan in.

24 Q. Had a decision been made, first of all, by you as
25 to whether or not when the defense case came on that

1 you would testify?

2 A. Well, I made it adamantly clear that I -- under no
3 circumstances will I not testify because I will not be
4 sitting in a jail cell if I'm convicted falsely without
5 having defended myself.

6 Q. Had the issue of giving or not giving an opening
7 defense statement at the conclusion of the
8 prosecution's opening statement been made?

9 A. A decision about the opening statement must have
10 been made. I don't believe I was in great disagreement
11 that the opening statement would best be heard when we
12 present our defense case because it's going to be about
13 two months that the Government is going to drag in 100
14 witnesses, and it's going to be so convoluted and
15 confusing that it's best we re-remind the jury with an
16 opening statement when the defense puts on their case.

17 Q. That idea came from whom initially, if you can
18 recall?

19 A. From my attorneys. They thought it was better.

20 Q. Did you at any point in time during the course of
21 your legal career practice criminal law?

22 A. No.

23 Q. And your understanding of the not giving of the
24 opening statement, was that conditioned upon anything
25 as verbalized by your attorneys?

1 A. No. But it was understood or possibly said by me.
2 If as long as we are cross-examining witnesses that the
3 Government will be bringing in an effort to prove me a
4 felon, as long as we're staying afloat with diligent
5 cross-examination, then we don't need an opening
6 statement because we'll get our chance. Also, there
7 was going to be a request for a directed verdict after
8 the Government put on their case. So if we did a good
9 enough job on cross-examination, we would avoid a train
10 wreck scenario.

11 Q. You indicated that Mr. Wiley's deposition was
12 shown Tuesday?

13 A. Mr. Wiley's, yes.

14 Q. Was it concluded that day?

15 A. No. The Government technician had a little bit of
16 a problem with some of the editing, so the Court
17 decided to show the last 20 minutes on Wednesday
18 morning.

19 Q. Was there cross-examination of Mr. Wiley as best
20 you can recall in the videotaped deposition?

21 A. Yes, there was.

22 Q. And whose cross-examination was that?

23 A. Mr. Flanders and Mr. Pine I believe did a
24 legitimately good job asking of Mr. Wiley what did the
25 Government say when they approached him and what were

1 the Government's actions. And out of that, we were
2 able to ascertain that the special agent in charge,
3 Pamela McDade actually went and visited Mr. Wiley and
4 brought him cookies. At one point she brought her son
5 to visit Mr. Wiley. If the defense team ever went to a
6 witness with cookies, we'd be charged with witness
7 tampering. Certainly bringing our family members over,
8 I tried to find it in the FBI handbook about whether
9 you're supposed to be bringing kids and cookies over.
10 So it revealed a lot about the investigation.

11 Q. One of the counts in this indictment was witness
12 tampering on your part; is that right?

13 A. That's correct.

14 Q. What was the preparation done, if any, to your
15 knowledge with regards to that particular count?

16 A. On that count, Mr. Lepizzera had a lot of
17 firsthand information because the alleged witness that
18 was tampered is a member of our church and we see him.
19 So Mr. Lepizzera was actually very familiar with this
20 person and that count and basically summarily dismissed
21 it from anything we have to worry about under the
22 theory that I would have to be tampering with a witness
23 to gain some benefit from it. I get no benefit from a
24 witness deciding to tell the Government whatever they
25 want to tell them to defend themselves from their own

1 family. So it wasn't meeting the criteria.

2 Q. Did either Mr. Traini or Mr. Lepizzera make
3 comment to you apart from what you've already testified
4 with relationship to the Kiley video deposition?

5 A. To the Wiley.

6 Q. Excuse me. Wiley.

7 A. Yes. Very surprising. At the end of the first
8 day, Mr. Traini turned to me and said, "Did you see the
9 look on Judge Smith's face? He was shocked." This was
10 the first time the judge must have seen this video and
11 he says to me, "I also, this was the first time I've
12 actually seen it." So I was a bit taken back that I'm
13 paying someone 50,000 a month and they don't even see
14 the video. He said, "This looks pretty bad." I mean,
15 that was a general commentary. There was no speak of
16 making a plea or anything else.

17 Q. When did the Court adjourn for the day?

18 A. At 1:30 or so.

19 Q. 1:30 or so. And what happened at the conclusion
20 of the first day's proceedings?

21 A. Well, what happened was our defense counsel could
22 never put in a word on anything because we didn't have
23 an opening statement and we could not cross-examine a
24 videotape. So the expectations from Mr. Lepizzera were
25 to me and my family, who was with me, much like they

1 are today, Don't worry, guys. Tomorrow we get a live
2 witness. We can do something.

3 Q. Okay. Did you meet with the defense attorneys
4 after the conclusion of court that day?

5 A. I don't believe I did. My wife was with me. We
6 had to go pick up our son from school at St. Andrew's
7 so I believe we just took a leisurely ride to
8 Barrington and picked him up and went home. And with
9 all the preparation that Mr. Lepizzera had done with me
10 about Mr. Rodriguez, about the payments made to him,
11 about his felony past, about why he was misled by the
12 Government as to what I was making off of him, I was
13 very enthusiastic about hitting this thing hard come
14 the next morning.

15 Q. Your expectation was that Mr. Rodriguez was going
16 to be testifying?

17 A. Yes. We were told.

18 Q. Okay. You get up in the morning, Tuesday?

19 A. Yes.

20 Q. Excuse me. Wednesday. We're on Wednesday. You
21 get up on Wednesday; you go to court?

22 A. Yes.

23 Q. Who was with you in court the first day on
24 Tuesday?

25 A. Well, my wife and various family and friends. My

1 wife went with me.

2 Q. Who went with you to court on the second day, on
3 Wednesday?

4 A. My wife as well.

5 Q. And did there come a time when Mr. Rodriguez was
6 presented?

7 A. Yes. Mr. Rodriguez was presented as the first
8 live witness. There was some mention made in the
9 opening statement by the Government that they're going
10 to start right with the best. We're going to get a
11 videotape of Mr. Wiley, and we're going to bring in
12 Ed Rodriguez who, in their opinion, was the only single
13 living person who was still alive to talk about this,
14 notwithstanding that Mr. Buckman was also still alive
15 but the Government didn't have any use for his
16 testimony. It was positive for us.

17 Q. Did your attorneys prepare in preparation for this
18 case Mr. Bucknum?

19 A. Buckman.

20 Q. Buckman?

21 A. They never prepared him, but we brought him in to
22 be deposed under Judge Smith's ruling that we could
23 depose the so-called victims.

24 Q. And the conduct of the examination of
25 Mr. Rodriguez, how did he present in the court, by his

1 own two feet or by other means?

2 A. Well, he was wheeled in in his wheelchair. He had
3 his daughter help him and stand near him or near the
4 table. And he looked quite credible and looked cleaned
5 up. And you know, I had only met Mr. Rodriguez at the
6 video deposition beforehand. I never met him other
7 than that, but I was glad to see he seemed to be
8 feeling okay, that he wasn't very sick. He's a young
9 man.

10 Q. The video deposition had been conducted also by
11 Flanders and Pine?

12 A. That's correct.

13 Q. And accessed by Mr. Lepizzera and Mr. Traini?

14 A. Absolutely. Yes.

15 Q. At the conclusion of the Rodriguez testimony, did
16 the way the cross-examination, so-called, had been
17 conducted have any impact upon you?

18 A. Yes, it did. First of all, Mr. Rodriguez was
19 blurting out they're making money on my death and
20 telling the jury this, which is fine. That is his
21 position. The Government is showing that there's
22 hundreds of thousands or millions invested in his name
23 implying that I was making that as profit. We intended
24 on straightening out these allegations or facts simply
25 by explaining to Mr. Rodriguez that there was no great

1 profit to be made here especially since he didn't die;
2 and number two, he was compensated and agreed to all of
3 this. And the real essence of Mr. Rodriguez, the whole
4 case would have turned on Mr. Lepizzera following the
5 same cross-examination pattern that was done
6 beforehand.

7 Q. Was that your expectation?

8 A. Absolutely. As a matter of fact, I expected more.
9 We reviewed the deposition of the -- the transcript of
10 the deposition. There was 93 pages of
11 cross-examination.

12 Q. Did you say anything to Mr. Lepizzera at the time
13 of his cross-examination?

14 A. Yes. When I noted that he only asked a couple of
15 questions and was not hitting the most important point,
16 which is asking Mr. Rodriguez why is he testifying, how
17 does he believe he was screwed over, if you excuse my
18 French, and who told him this. Because the answer was
19 Ms. McDade, the FBI person was giving misleading and
20 outright false information to these people and getting
21 them all worked up, letting them feel like they were
22 part of a criminal ring. And it was very important to
23 ask Mr. Rodriguez how were you damaged and why do you
24 end up here. Tell me who you reported your crime to
25 because you believe you were a victim.

1 Q. When and what, if at all, did you say to
2 Mr. Lepizzera relating to Mr. Rodriguez at the
3 conclusion of the cross-examination, so-called?

4 A. As soon as Mr. Lepizzera came back to the table, I
5 immediately grabbed the file and said to him, Get back
6 out there and ask him about Special Agent in Charge
7 McDade. Let's start telling the jury what we believe
8 happened here.

9 Q. What did he say to you, if anything?

10 A. And he said, "I don't want to beat up on a guy in
11 a wheelchair. Plus, Joe, we'll get him on our defense
12 case. Don't worry."

13 Now, I am an attorney. I know that if we have
14 to recall a witness, it is direct examination that we
15 have, not cross-examination, which many times allows us
16 to treat the client as a hostile witness or have
17 leading questions. So the only opportune time we had
18 was that first live witness to set the standard for
19 what was going to happen here. It was shocking to me.
20 I'd say 70 percent of my life left me right after that
21 lack of cross-examination.

22 Q. Can you tell the Court who came next as best you
23 recall on that day, Wednesday, the second day of trial?

24 A. Yes. Kathleen Flori came next. And this was a
25 case in which the Government alleged aggravated

1 identity theft as well as mail fraud or wire fraud,
2 meaning the name of her husband, Dennis Flori, was
3 forged. Now, Raymour dealt with the Floris. I never
4 met them. I only was presented papers with signatures
5 and told they were signed in good faith and there was a
6 good faith offer and acceptance of my cash to enroll
7 them in our program.

8 Q. As it relates to Mr. Lepizzera, who cross-examined
9 the Flori testimony?

10 A. Well, Mr. Radhakrishnan got to cross-examine and
11 so did Mr. Lepizzera. I don't know who went first. It
12 may have been Mr. Radhakrishnan because he really --
13 the Flori family did not know me except for my name on
14 a check.

15 Q. Was there anything about the Lepizzera
16 cross-examination as it relates to the Flori testimony
17 that affected you?

18 A. Yes. Clearly, my attorneys had not done the
19 diligence to speak with Mr. Radhakrishnan to determine
20 how he intended to defend these allegations of forgery,
21 because the family asserted that their father could
22 only sign one piece of paper because he was too sick
23 and yet five of them needed to be signed to open up an
24 account.

25 So Raymour assured me it was absolutely

1 legitimate, that this was done on the up and up. I was
2 not allowed to speak to Raymour after he engaged
3 court-appointed counsel and/or was his own counsel. My
4 attorneys told me I was banned from speaking to him.
5 So I could not ascertain or discover that.

6 Q. Let me back you up half a step. At the conclusion
7 of the Rodriguez testimony, can you say whether or not
8 there was any comment made by either Mr. Traini or
9 Mr. Lepizzera relating to their perception of the
10 effectiveness or not of that testimony?

11 A. At the conclusion at the next break or so,
12 Mr. Traini said, "Boy, did you see how credible Ed
13 Rodriguez is? He looked neat. He was really credible.
14 This is looking really bad." And I did not disagree
15 considering we did not cross-examine him.

16 Q. After the Flori testimony, was there anyone else
17 that was presented by the Government?

18 A. Yes.

19 THE COURT: Let's stop before you get into the
20 next witness and take a little break.

21 So we'll take a ten-minute break and then after
22 that we'll go to about 12:15, 12:30 and then we'll
23 break for lunch. Okay.

24 (Recess.)

25 THE COURT: All right. Mr. Watt, you may

1 proceed.

2 Q. Mr. Caramadre, I think we were up to the Flori
3 testimony and your reaction to that. What came next on
4 that second day of trial, Wednesday?

5 A. Well, regarding the Flori testimony, a wife of the
6 decedent came in and said her husband could not have
7 signed the forms, followed by her son who says dad was
8 incapable of signing more than one form. I thought
9 that the signatures looked the same. I'm not a
10 graphologist. I don't study handwriting. And I
11 expected my attorneys to draw a wall between that which
12 Raymour's actions were and meeting with these people
13 and regarding the information I had about them, which
14 was nothing more than they were enrolling in this
15 program for some money. I expected more of a
16 separation. And given the fact that Mr. Rodriguez's
17 cross-examination was very poor, my health started to
18 decline very quickly due to my severe depression that's
19 already been prevalent for so many years, and it got
20 much worse during this time.

21 Q. You mentioned in earlier testimony 70 percent?

22 A. Yes.

23 Q. Seventy percent of what?

24 A. Seventy percent of hope. If I had a hundred
25 percent of hope expecting to hit the first witness

1 hard, try to establish a defense and the truth, and
2 it's not done, I've lost a majority of the game, in my
3 mind. I start to become feeling very lonely and
4 starting to feel severely depressed, beyond what I
5 normally am.

6 Q. Can you tell the Court after Flori, what came next
7 on that day?

8 A. Well, I should say this. After Flori, the son was
9 adamant that he worked with his father a whole half
10 hour to just sign one form and, yet, he could not
11 understand why there were five forms signed of similar
12 signature. So my attorneys never have investigated the
13 Flori family, never having even spoken with Raymour as
14 the actor in this about what his justification was for
15 this. We were at a great disadvantage. I for the
16 first time figured out that Raymour may have been
17 responsible for either forgeries or just mishandling
18 this beyond what he had told me he was responsible for.

19 Q. After the Flori, what came next?

20 A. The last witness of the day was Ann Scuncio, and
21 she was the daughter of Pia Bernardo. Ms. Scuncio
22 testified that she did not sign forms on behalf of her
23 mother, who was a measuring life. Upon
24 cross-examination from Raymour, she asserted that she
25 at no time gave us or showed us her power of attorney

1 that empowered her to sign on behalf of her mother, who
2 was very sick. And it was asked and answered in the
3 negative, no, I did not give you a power of attorney.

4 I expected my counsel, Mr. Lepizzera, to get the
5 power of attorney that was in our file in front of both
6 of us and confront the witness. If you didn't give us
7 one, how did we get your power of attorney from your
8 attorney, that your attorney prepared, not our office,
9 an independent document. How do you explain we have
10 this?

11 And number two, do you also know that your
12 mother died within days after the establishment of a
13 bond account. I think it would have been noteworthy
14 that the jury hear that we lost a considerable amount
15 of money on that account because the measuring life
16 died very quickly, unfortunately for the family as well
17 as for us. But I expected Mike to make those points.
18 When he refused to ask any questions at all, I quickly
19 went down a -- very little hope left. It wasn't a
20 series of questions in which he skipped this. His
21 response was, "No questions, your Honor." I gave him
22 the thing and said, "Get back up there and please put
23 this, or do I have to do it." And he said, "No, let's
24 just leave it alone." No questions. Done.

25 That set a very downward and serious spiral,

1 both on myself and my wife.

2 Q. Was that the last witness on Wednesday?

3 A. Yes.

4 Q. At the conclusion of the Court session on
5 Wednesday, where did you go?

6 A. On Wednesday, we had to get out of the court and
7 we -- I believe we went to pick up our child at
8 St. Andrew's. However, my wife had become ill. We
9 were both very, very saddened by this situation. I
10 process catastrophe different than she does.

11 Throughout the day her health was decaying. Her
12 color was turning white. And all she heard now was the
13 first day with the Government saying her husband is a
14 felon and a felon of grand proportions and then nothing
15 to dispute any of the witnesses coming on.

16 So upon getting home, my wife was very sick and
17 needed to get into bed, which hours later to my
18 surprise she could not get out of bed. She was
19 experiencing a form of mental breakdown, which was
20 very, very worrisome to me. I had already reached my
21 peak of depression just how the case was going and I
22 started to get very worried about my wife who survived
23 all of Wednesday night in tears, speaking irrationally
24 in total desperation of why aren't they defending my
25 husband. "They" being the attorneys. It was a very

1 terrible thing.

2 The next morning she, of course, was not able to
3 get out of bed and come to court. We agreed we would
4 call her doctor's urgent line, and I left her in the
5 hands of a friend who was responsible for checking in
6 on her, whether my wife knew or not the friend's task
7 was to check on her because we've dealt with mental
8 illness for a long time in our family. I've suffered
9 of it 25 years.

10 Q. You've moved me into Thursday quicker than I
11 wanted to get there.

12 A. I'm sorry.

13 Q. We'll come back to it. That's okay.

14 Did you have any meetings or conversations with
15 either Mr. Lepizzera or Mr. Traini on Wednesday after
16 leaving the court?

17 A. None. Because my wife was very sick. I saw her,
18 she said we have to leave immediately and I was very
19 despondent myself. I believe I called Mr. Lepizzera on
20 Wednesday night and informed him my wife is in bed and
21 I'm very worried whether I should bring her to the
22 hospital now. My wife had had some experience with
23 postpartum depression back 18 years ago, which required
24 hospitalization, and I've always been protective of her
25 mental state.

1 I told Mr. Lepizzera things are looking really
2 bad on the home front. And on Thursday morning, I had
3 to take my child to school and then come here and keep
4 checking in on my wife by calling the home.

5 Q. In addition to what you've described as your
6 wife's previous treatment, did you ever have any
7 hospitalizations?

8 A. No. I had general hospitalizations for blood
9 pressure, pre-diabetes, depression, but it was never at
10 a psychiatric hospital. I've had many -- depression
11 takes a toll over all these years on many of the body's
12 organs and parts. It can affect a lot of different
13 things.

14 Q. As it relates to you directly, the major
15 depression that you've testified to, how does it affect
16 you physically?

17 A. Well, having to take nine prescriptions already is
18 a daunting toll on the body. Some make you sleepy.
19 Some make you alert. Others make you -- give you high
20 acuity. Others take away sharpness. It's a sort of
21 zombie-like world and that's why in July of 2011 my
22 doctors decided unanimously that I should not be giving
23 legal or financial advice because between the
24 medications and the severity of my illness, it would
25 be --

1 Q. Did your wife, Paula, ever come back into this
2 court right through the end of Monday, November 19th,
3 and the giving of the plea before Judge Smith?

4 A. No. No. She could not come. She was sick. We
5 had to go visit her doctors. That was her job, but no,
6 she could not make it here.

7 Q. Okay. Did Mr. Lepizzera or anybody from
8 Mr. Lepizzera's family ever go and see your wife during
9 the period from Wednesday, second day of trial, right
10 through the giving of the plea?

11 A. Yes. On Sunday night, Mr. Lepizzera came over my
12 house with Mr. Traini to discuss the plea.

13 Q. Only time?

14 A. That was the only time, yes.

15 Q. Now, besides the varying regimens of multiple
16 medications to which you've given the Court some
17 indication, any other treatments?

18 A. Yes. I've had many different attempts to cure
19 long-term depression. Depression is a chemical
20 imbalance in our brain. It's not about the sun shining
21 or not. It's about how our brain processes endorphins.
22 I survived a six-month session of TMS, transcranial
23 magnetic stimulation at Butler Hospital. It was very
24 expensive and very painful. It's the equivalent of
25 putting a football helmet on with hammers banging your

1 head. It was so bad for me, and I don't mean to speak
2 badly of Butler Hospital because this is a cure for
3 some severely depressed people. It might be the only
4 cure. But it was very painful. So painful I had to
5 bring people with me to either drive me or just help me
6 get through the 40-minute session.

7 It did stabilize the depression a little bit,
8 but then it could no longer keep me at half depressed.
9 I went back to full depression.

10 It was a very serious and, again, expensive
11 process and it was very painful, but I've always tried
12 to do everything I can to get better. As a matter of
13 fact, the doctors recommended electroshock therapy of a
14 different type but I would lose short-term memory and
15 I'm the holder of most of the facts in this case. So I
16 couldn't afford to not be able to guide my defense. I
17 wouldn't have known the difference if Mike Lepizzera or
18 Tony Traini did a good job if I went under the electric
19 shock therapy because I wouldn't have remembered the
20 facts.

21 **Q.** Did you sleep on Wednesday night?

22 **A.** If I got a half hour, it was a lot. My wife was
23 very sick. I was hoping and praying with her that she
24 would feel more rational and more better by Thursday.
25 She did not. The agreement was she would stay home.

1 We would get a friend to watch her and she would call
2 her doctor. When someone has a quasi-breakdown that
3 they start becoming irrational, it is rather serious
4 and you need to start medicating fast.

5 Q. What was your emotional state as best you can
6 describe it as of Wednesday evening?

7 A. On Wednesday evening, I basically hit bottom. On
8 Wednesday evening, I felt that for three-and-a-half
9 years I had gone through tens of millions of assets to
10 profess my innocence. I had maintained my innocence
11 the whole time. I put my family and myself and my
12 reputation at great risk and this was going to be the
13 day that we can help ourselves, and it did not come. I
14 was absolutely hopeless especially with Paula going
15 down, the fact that the lawyers primed the pump so bad
16 for us that by Wednesday night I needed to start
17 worrying about my children and Paula about this trial
18 was not going well. We can not unring a bell that's
19 been said to the jury. We can't go back and unsay or
20 be more aggressive, and my wife is down and could be
21 down for a long time. It could result in death if not
22 managed properly.

23 So on Thursday morning, I instructed
24 Mr. Lepizzera and Traini, given that my wife's health
25 is very serious, my children cannot go without a father

1 who would be potentially incarcerated for many, many
2 years and without a mother who is healthy or possibly
3 even alive. So to find out what offer the Government
4 has on the table. Clearly, we haven't defended
5 ourselves, what can we do right now.

6 Q. Did either Mr. Lepizzera or Mr. Traini make
7 comment to you with respect to Mrs. Caramadre's
8 condition?

9 A. Mr. Traini seemed to be -- talked sympathetically
10 saying these things are very serious, they could
11 deteriorate very quickly so you better call your wife
12 every hour on breaks and make sure -- this is no
13 laughing matter, Joe. Not that I was laughing. I knew
14 full well what this could be. And he immediately
15 started saying if we're in mode of plea bargain, the
16 sooner we can do this, the better it is for you. And I
17 said I only want to entertain what's on the table and
18 see if it makes any sense.

19 Q. Was the Court in session on Thursday?

20 A. On Thursday morning from what I was reported to by
21 my attorneys, the Government would be very happy to
22 stop this case if I plead two to five.

23 Q. Two to five what?

24 A. Two to five years. And that would mean that I
25 would be sending a message to Judge Smith that I am

1 guilty, I deserve at least two years and would leave
2 discretion to the judge to go between two and five
3 years. Even with being hopeless, I would not accept
4 that as an offer. It would send the wrong message.
5 Even when you're desperate, you can still try to make
6 some judgments. That was unacceptable.

7 I instructed my attorneys that they should
8 pursue a plea where we could argue to this Court that I
9 deserve no time when the Court actually discovers what
10 my participation in this is, or lack thereof.

11 Throughout the day on Thursday, there were
12 witnesses. If there was any hope left for Thursday
13 morning, what little there was, it quickly got
14 dispensed on Thursday afternoon.

15 Q. What happened then?

16 A. Mr. Kenneth Blowers was a witness. Mr. Blowers is
17 the only witness that had ever dealt with me directly.
18 Everyone else to that point only dealt with Raymour.
19 Our argument obviously should have been, okay, Raymour
20 may have done this but Joe would never have approved
21 it. Mr. Blowers dealt with me in 1995. We were
22 interviewing him 12 years later. And of course he
23 complained to no one except for the FBI going to him
24 and creating this monster.

25 Mr. Blowers needed to be cross-examined on two

1 points. Number one, that he had conflicting testimony
2 with the Grand Jury testimony; and number two, how he
3 was introduced to me because he did not know in his
4 testimony. And we needed to bring up names of people
5 who could have introduced me to him back in 1995 to.

6 THE JUROR: His memory or to at least let him
7 deny it.

8 Q. What was the importance of that in your mind?

9 A. The importance was Mr. Blowers left the Court and
10 the jury, at least the jury the impression that I just
11 cold-called him in 1995 out of nowhere and took
12 advantage of his wife. His wife, who in the Grand Jury
13 proceedings he said she was capable of taking a ride
14 and going and visit an attorney in April of '95. When
15 asked, he said yes, she was capable of doing this. Yet
16 in his actual testimony he said no.

17 So I would have liked my attorney to ask how do
18 we get to yes, she's capable of moving to no, she's not
19 possibly capable of understanding anything. One of
20 them has to give and that would also bring light to who
21 did you first complain to, which law enforcement agency
22 did you go to because you thought you were taken
23 advantage of. And the answer of course is zero because
24 no one complained to anyone here.

25 I also thought that it was important that how he

1 was introduced and this was the first witness to me.
2 It was very important that we set a tone. Now, it had
3 been a disaster. There was no tone to set. The
4 evidence was mounting, going unrefuted, undefended.
5 But the Blowers case took me to Ground Zero. At that
6 point, we couldn't even -- if my attorneys were not
7 even going to ask him about whether he met me and had a
8 third person introduce us and why the distinction, why
9 the contrast or why the contradiction between his Grand
10 Jury testimony under oath two years earlier and now,
11 and I believe the answer would have been because he's
12 been better prepared now by the FBI.

13 Q. Was there cross-examination of Mr. Blowers?

14 A. There was very little peripheral cross-examination
15 that amounted to nothing. There was very little.

16 Mr. Lepizzera came back, and I urged him please get up
17 there and ask him does he know Harrison Condit who may
18 have introduced us two. He said, No, I don't want to
19 -- we'll get him later. Don't worry about, Joe.

20 And that was it. At Ken Blowers, the game was
21 over.

22 Q. Can you say whether or not Mr. Traini made comment
23 on the process or the proceedings on Thursday before
24 this Court?

25 A. I don't recall if Traini made direct comment on

1 Thursday, except that since we're in plea negotiations
2 you better consider doing it immediately because every
3 day we wait the judge will punish you with more time,
4 and the theory being the judge is going to see more
5 damning information about you.

6 Well, under the theory of let's not defend Joe
7 Caramadre, absolutely. Any more witnesses coming in
8 would be negative. Number two, I'd be tying up the
9 Court's resources and time and the jury, and the judge,
10 obviously, would have reason to punish me more if I
11 prolonged this.

12 So the only thing that I could comprehend was,
13 okay, this has to be done immediately, apparently,
14 because I can't risk more years.

15 And we went into -- I believe the Government --
16 again, I don't know what they discussed with my
17 attorneys. I only know what my attorneys told me.

18 **Q.** Okay. So is it fair to say that from Thursday
19 until Sunday night that there were extensive
20 communications as you now know between the Government
21 and your attorneys?

22 **A.** Yes. I also knew on Thursday when I refused -- if
23 it was an offer, and I'm not sure it was an official
24 offer from the Government, a two- to five-year
25 sentence, I asked my attorneys to go find out what it

1 takes to have a zero at the bottom number and what
2 number we could put on top so that we could argue my
3 otherwise good character and other accomplishments to
4 the judge in the hopes of getting zero and they could
5 argue whatever my bad acts might have been.

6 And the Government at first I was told, fine,
7 you could argue zero, we'll argue 25 years. I don't
8 know if the Government made that offer. That's just
9 what was reported to me by my counsel. I told them
10 that's completely out of the question. Even a monkey
11 would understand if you're zero to 25, it does not make
12 sense compared to two to five even in rational terms.

13 Sure enough, by Friday morning or so, our goal
14 was to get a zero to ten proposition because with ten
15 there might be a chance of little or no time as it was
16 told to me by my attorneys where a judge would be
17 inclined to give you much more time if it's zero to 25,
18 knowing full well the guidelines on this case speak to
19 life in prison because of the amount of alleged losses
20 by the insurance companies as alleged victims. So the
21 amounts and the number of insurance companies bring the
22 guideline sentencing levels to life, beyond life.

23 So zero to 25 with guidelines coming in at life
24 is not very appetizing.

25 Q. How old are you?

1 A. I am 53 years old.

2 Q. Your wife?

3 A. Is 48.

4 Q. Did the level of your hopelessness change at any
5 point in time for the better from Wednesday night
6 through the time of the giving of the plea to Judge
7 Smith?

8 A. No, it did not. It maintained at zero as of
9 Thursday. As of Friday, my job -- we had the
10 unfortunate incident on Thursday. I rushed out of
11 here. I was supposed to bring my wife to the doctor,
12 and we went there and there was no doctor because my
13 wife was not competent to figure out the doctor said
14 come tomorrow instead of come today. So we had to
15 wrestle our schedule. She cannot drive in her state;
16 she had to be brought there. So we were frazzled as it
17 was.

18 By Thursday night, I made sure there was a
19 doctor's appointment the next day as soon as we
20 finished in court here on Friday. I was concerned to
21 make sure Paula was okay. I went to the doctor's with
22 her. The doctor also noted I was quite distressed
23 myself and that I need to take care of myself, and it
24 just so happened I could not see my psychotherapist
25 because my normal appointment is Thursday at 10:00 in

1 the morning and, unfortunately, she was leaving the
2 country on that Friday and I couldn't see her over the
3 weekend.

4 Q. And your normal appointment was on what days with
5 Dr. Zlotnick?

6 A. Thursday at 10:00 a.m.

7 Q. Okay. Did you see any mental health provider from
8 the time of the start of trial right to the time of the
9 giving of the plea other than you've related as it
10 relates to your wife?

11 A. No, I did not.

12 Q. Any medication change in terms of your wife's
13 condition?

14 A. Yes. Well, she was started immediately on
15 medication as of Thursday.

16 Q. Did that change on Friday?

17 A. It changed on Friday. The regimen was immediately
18 doubled, and we put in some other safeguards in place
19 to make sure that she actually takes well to the
20 medication so it can tend to stabilize the despair
21 depression within three or four days.

22 Q. On Friday, what was the line-up of the
23 presentation in the court?

24 A. On Friday, five witnesses came forward and they
25 told their story. There was some cross-examination. I

1 questioned why the Government even put in two
2 witnesses, because, at the end of the day, it was their
3 opinion that the money we gave them was very helpful to
4 them and they did sign forms and understand that an
5 account was being opened up. But it was way too late
6 then. The jury already wrote guilty on every single
7 pad as of the Wednesday.

8 Q. That wasn't an observation of yours. That was --

9 A. I could just look from sitting at that table where
10 as soon as we were not defending these witnesses and
11 Mr. Vilker or Mr. McAdams was putting up, okay, your
12 account was this, \$500,000, Joe Caramadre or Paula
13 Caramadre, there was no distinction as to whether that
14 was an investment, whether that was a loss, whether it
15 was gain. The gains were few. We just -- it just
16 looked like a lot of money to a jury. And absolutely,
17 if someone is saying my dad didn't sign this, Dennis
18 Flori is saying my dad didn't sign it, but Joe
19 Caramadre opened an account, it certainly looks like
20 conspiracy unless we put a line, we determined to get
21 Raymour on the stand or get me to say I would never
22 have accepted anything that was forged or not in proper
23 form, period. And for 30 years I ran a practice that
24 way.

25 Q. Had there been any preparation of any character

1 witnesses in anticipation of a defense case to your
2 knowledge?

3 A. I had a long list of character witnesses. I sat
4 on upwards of 12 charity boards. My family has given
5 away millions of dollars to charity. We care about the
6 poor and those who need us. So I was lucky enough to
7 have a rather extensive character reference if I chose
8 to go to captains of industry and ask them to speak to
9 my general character.

10 Q. Any interviewing done by any of the three
11 attorneys with relationship to any of those character
12 witnesses?

13 A. No. It was, "Great. You have a long list. We
14 know that." I believe Mike Lepizzera once told me that
15 Attorney Vilker said, Gee, Caramadre might take up two
16 months just with character witnesses. As a joke, you
17 know.

18 But, no, we never prepared anyone. We never
19 prepared an expert. We never got an investigator. And
20 we just -- unfortunately, I was the last to find out
21 that the ostensible plan was I guess do nothing as
22 defense.

23 Q. What were the nature of your activities with your
24 family on Friday, if any?

25 A. On Friday, we had to rush out of here, run to

1 Paula's doctor and try to determine if she needed
2 hospitalization or not. He changed the dose to a
3 hundred of Zoloft, which in her weight actually helps
4 her much quicker. My job was to manage her, manage the
5 kids and find out what the heck we're going to do with
6 us having this big hole in the courtroom that is
7 completely unexpected.

8 Q. Same courtroom as we're in right today?

9 A. Yes.

10 Q. What happened on Saturday as a general overview as
11 it relates to you and your activities?

12 A. On Saturday, I was distraught all weekend and I
13 went to have breakfast with Father Lacombe, a priest.
14 And I was distraught. I was saying I have to stop the
15 bleeding. This thing -- and me going away for 30
16 years, whether I'm innocent or guilty doesn't matter
17 anymore if Paula's sick. It certainly mattered that I
18 was innocent to me, but the prospects are that this was
19 a train wreck that we were not defending. We were in a
20 very difficult position with Raymour being his own
21 attorney. He's unskilled at this. My lawyers have, I
22 believe, tremendous skills. It's their willingness to
23 defend which I'm questioning.

24 Q. Did you meet with either Mr. Traini and
25 Mr. Lepizzera during the course of Saturday?

1 A. No. I spoke to Mr. Lepizzera, and I did write him
2 an e-mail after speaking with Father Lacombe, who knew
3 I was having tremendous problems considering a guilty
4 plea because I would have to be lying to the judge and
5 the Court. And he recommended why don't you see your
6 counsel if he'll take an Alford plea. This way you
7 won't have to lie about saying you're guilty. Or it
8 was something to the effect of a nolo contendere,
9 throwing myself at the mercy of the Court without
10 admitting any guilt. That would mean I wouldn't have
11 to lie.

12 I put it in writing to Mr. Lepizzera on
13 Saturday. Can we do an Alford plea so I won't have to
14 lie. Everyone understood what that meant. And it was
15 never answered except the Government won't accept an
16 Alford plea.

17 On Sunday, the only interaction I had with Mike
18 Lepizzera, or even on Saturday, was that he said he was
19 trimming down the Government's statement of facts which
20 were wide-ranging which alleged this conspiracy started
21 in 1995 and was all-encompassing. I asked him could he
22 get some names off of the so-called victims list that
23 were in-laws of mine. And I guess the Government
24 agreed to that. It wasn't that important to them at
25 this point. And could we get AEGON Insurance off of

1 the insurance companies because they're already suing
2 civilly and well on their way of either winning or
3 losing their case. I believe that they took my in-laws
4 name off and they kept AEGON or Western Reserve Life
5 in.

6 Q. What was the nature of Paula's condition on
7 Saturday?

8 A. Paula's condition was in bed, bad, very hopeless,
9 trying to figure out what are we going to do. What are
10 we going to do if she's not well and our children need
11 attention? I cannot act as a mother and a father if
12 I'm managing a trial as well and very upset with the
13 way the trial is being managed. We did not have the
14 convenience of just stopping the trial and say let me
15 get better with my wife so I can stabilize my family.
16 We were already in and in my opinion family members
17 were calling me, please, Joe, make -- take the plea
18 because you're going down forever. The jury believes
19 you're a guilty man, even if it wasn't articulated. It
20 was inferred. It was said in an opening statement.
21 None of the witnesses except for Ken Blowers and one
22 other, which I'll speak about in a minute, ever met me
23 or knew me. So yet I was just as guilty because I was
24 the investor on these accounts under the proposed
25 conspiracy.

1 On Friday, again I don't believe there was any
2 hope left but what struck me was that the Government
3 brought in a person from the Rhode Island Catholic
4 magazine to express his lack of approval of my ad for
5 the terminally ill and how he had to go to the
6 higher-ups in the Catholic Diocese to get an okay for
7 this because in his opinion it didn't look right.

8 My attorneys should have pointed out to this
9 gentleman and the jury that because of that ad, 156
10 people received \$2,000 without any obligation in any
11 account whatsoever. And that was maybe the only ad
12 that's ever run in the Rhode Island Catholic that
13 actually helped people, that actually gave money away.
14 Of course my attorney didn't care to take that up.
15 Comes in. It's bad. It's bad.

16 We were done on Friday. Friday, I had to bring
17 my wife to the doctor. My only problem was how do I
18 lie to this Honorable Court because I have maintained
19 that I have a high degree of integrity, not
20 withstanding the allegations involved. I've always
21 been wanting to confront them from day one. I
22 immediately asked for a meeting with the Government.
23 As soon as I knew there was an investigation, I
24 voluntarily handed over the names of participants, the
25 insurance companies, my tax returns. I wanted to make

1 sure they knew I was cooperating. There was nothing
2 illegal intended and in my opinion nothing was
3 happening illegally.

4 Now, I had a moral dilemma, one that haunts me
5 to this day. On Sunday night, Michael Lepizzera and
6 Tony Traini had to come to my house and apprise Paula
7 and I about the plea agreement and the associated
8 statement of facts. My wife was very sick. She was
9 barely holding her own at the dining room table and she
10 was -- I asked specifically how is it that I have to go
11 plead guilty and agree to this statement of facts that
12 is long-reaching when I deny it completely and don't
13 believe I'm guilty of anything and all of these are
14 lies and I'd be lying about it.

15 So my attorneys told me what attorneys should
16 tell people, that they cannot tell me to lie or they're
17 going to get disbarred. Okay. So I said, Guys, I am
18 lying. I've maintained innocence. Mike Lepizzera
19 espoused my innocence for two years before Traini got
20 on board. How am I going to get around this?

21 And I asked Mr. Traini in particular since he
22 had the experience, how is it that people can justify
23 lying to the judge? And he said something to the
24 effect that most of his clients are guilty anyway and
25 it's just a question of getting a plea bargain when

1 guilt is prevalent and obvious. He goes, however, for
2 those who claim innocence, that even though tonight
3 being Sunday I believe I am innocent and lying to Judge
4 Smith guilty, tomorrow morning it's his experience that
5 just before I answer that I will believe I'm guilty and
6 therefore I am not lying. Or he put it in a third
7 person reference, it's his experience that when
8 defendants answer guilt, a second before they answer it
9 they believe they're guilty so they get over their
10 moral dilemma for lying.

11 And even after that I said that's still not good
12 enough. I will be no more guilty tomorrow than I am
13 now. And they just said, okay, well, we'll see you
14 later. It wasn't --

15 Q. How long was the meeting?

16 A. About 30 minutes.

17 Q. Where was it?

18 A. At our home.

19 Q. And were you left with a copy of the plea bargain
20 agreement and the statement of facts?

21 A. Not to my knowledge. When this statement of facts
22 was read, I objected strongly by saying I am
23 considering pleading to two counts, one of wire fraud,
24 one of conspiracy. Where is this -- why are they
25 getting into all this other stuff. And they said,

1 that's just what the Government thinks they can prove.
2 You're saying guilty. They're going to say they're
3 going to run with it with all the -- I actually said,
4 well, they didn't put that I killed President Kennedy
5 in there, so I guess I'm not guilty of that, the way
6 that the statement of facts was put together.

7 Q. Was there any opinion given in terms of what their
8 belief was as to what a potential sentence would be?

9 A. They reported to me, when I asked on point, what
10 is the situation here with zero to ten. I was told by
11 Mr. Traini Judge Smith is a very reasonable and
12 generous person. He needs to only imprison two types
13 of people. One is public corruption, a politician on
14 the take because the public demands jail time; another
15 is violent crimes because the public want people in
16 jail who hurt others. Joe, you don't fall into that
17 category. As soon as the judge learns about the true
18 Joe Caramadre, what he's really about, I believe that
19 there's a very good chance you will get no time. If
20 you get any time, it will be very little. There's a
21 very good chance you'll get little or no time. And
22 with that, the meeting ended. And the next morning I
23 came in and just -- I didn't read the statement of
24 facts or the plea agreement. I just signed it.

25 Q. Where did you sign it?

1 A. I signed it either on this table or in the
2 lawyers' table down the hallway.

3 Q. Copy given to you at that time?

4 A. No. Because what does it matter? I lost hope. I
5 was completely depressed. I could not defend myself
6 anymore. There was no reason really to live except for
7 family. And I betrayed my very self to save my family,
8 and I've regretted it ever since. And I wish things
9 were different but I have lied and I must take
10 responsibility for that.

11 Q. Did Mr. Lepizzera at any point in time prior to
12 Monday, I mean right through the balance of the day on
13 Sunday, prior to the giving of the plea, did he at any
14 time indicate to you that his belief in your innocence
15 had changed?

16 A. No. He basically -- after Tony Traini came on
17 board, it was very apparent that Traini's objective was
18 to get me to plea because he brought it up a lot. And
19 Mike became a follower of, well, you have to go 66 for
20 66. These were the criminal counts. I have to pitch a
21 shutout to win this because even if I'm found guilty of
22 one count I'll be punished for many more, just the way
23 it works. So the chance of walking away is going to be
24 hard. Mike starts saying the chance of winning it all
25 is going to be hard. And I kept saying why can't we

1 impute honesty and integrity and the truth here. If
2 I'm guilty of one, I'm guilty of all of them. And if
3 I'm not guilty of the one, I'm not guilty of all of
4 them. I'm either running a criminal enterprise or I'm
5 not.

6 So Mr. Lepizzera just thought it was in my best
7 interest, especially with Paula being sick, which I
8 know he cares about Paula and our kids, that I better
9 take the plea and that is absolutely the best thing for
10 me. Waiting any time will just cause more catastrophe.
11 There'll be more witnesses coming that will make you
12 look much worse in the judge's eyes, and the judge is
13 God almighty and he can decide if you go to jail or if
14 you don't and you got to stop the bleeding. And I
15 believed my lawyers would not be able to defend it,
16 period. We might as well have not had a defense if we
17 were going to move forward, just let the Government
18 bring their case forward.

19 Q. What was your takeaway from the conclusion of the
20 meeting with Mr. Traini and Mr. Lepizzera jointly?

21 A. My takeaway was this is the only chance I have.
22 We can't even go one more day of trial, because it
23 will get worse. And just get ready to lie. That was
24 my take.

25 Q. They didn't say it?

1 A. Oh, no. They didn't say it. I want to be very
2 clear that they did not say it. But they told me that
3 there's going to be this moment, especially Mr. Traini,
4 that a defendant doesn't lie because he believes he's
5 guilty right before he says it.

6 Q. Did you believe you were guilty right before you
7 said it?

8 A. No, not at all.

9 Q. Then why?

10 A. Why what, please?

11 Q. Why did you say guilty?

12 A. I said guilty because I had no hope. My
13 depression had overcome me. I had no confidence in
14 counsel. My wife was sick. My psychologist is out of
15 the country, and I'm saddled with nowhere to go except
16 -- I don't know if you could get any lower than we
17 were. So I needed to protect my family that at least
18 if I'm going to go away it won't be that long and I
19 could be here to give the protection and provide for
20 the family any many others as I have for so many years.

21 Q. Sworn to by the clerk before the plea?

22 A. Yes, I was.

23 Q. So help you God?

24 A. Help me God.

25 Q. What was going on in your mind when you heard

1 those words?

2 **A.** What was going on in my mind was God forgive me
3 for lying. When Judge Smith asked me -- I don't know
4 if he can remember; I know I can remember. I had to
5 wait about a second-and-a-half before I said yes. I
6 had to answer yes to this statement of fact or to
7 guilty yes. And he said is this, are these statements
8 of facts correct. And I just said yes. I couldn't
9 even look at the Honorable Court because it was a lot.

10 And I would like to just go on the record, this
11 is not about how many years I get in jail. If the
12 judge of this court or the Government said to me, we'll
13 just keep you guilty and you'll get no time, we'll cut
14 a new deal, I'm not accepting it. I am not guilty. I
15 would rather go to jail for 30 years espousing my
16 innocence and fighting this case on the merits and even
17 no time.

18 **Q.** In terms of belief in innocence by either of the
19 two attorneys, did either of the two attorneys make
20 comments to you after the taking of the plea by Judge
21 Smith?

22 **A.** The only comment I got was that Mike Lepizzera
23 said he was never sure I was going to plead guilty
24 until I did. In other words that until I said it, it
25 doesn't matter what was discussed. It wasn't in until

1 it's in.

2 Q. How soon, if at all, after the giving of the plea
3 did you think about the inadvisability of having done
4 it?

5 A. As soon as two or three days after. It was
6 Thanksgiving week. There were many relatives coming to
7 pay respects to Paula, who was getting a little bit
8 better. One of my children was out for the whole week
9 from school. I started realizing that I am a convict,
10 a convicted felon because I said I am, not because
11 anyone proved anything, and this has to change.

12 And by December 8th, I made a public declaration
13 that I am now seeking to reverse this.

14 Q. Did you have any contact with either of your
15 treating mental health providers relating to this issue
16 prior to December 8th?

17 A. Yes. I called Dr. Xavier on November 30th to
18 report that I'm having tremendous severe depression and
19 we may have to change the medication or do something,
20 possibly hospitalization. For me, my wife was getting
21 better but I've just pled guilty, I'm at bottom. I'm
22 at Ground Zero. I need reasons to live. I've got to
23 maintain my faith for my family to stay in this world.

24 Q. Had the issuance of acceptance of responsible
25 declaration by you come up prior to the November 30th

1 call?

2 A. No. The attorneys said we have to go to the
3 Probation Department and we're supposed to have some
4 tax returns and some other stuff put together or we
5 have to get it at some date. We went there. I think
6 it was around November 30th. And what convinced me
7 that I was dead wrong in pleaing guilty was when I was
8 at the probation office and the probation officer,
9 professional lady, Ms. Mattias I think her name is, she
10 said, Joe, I'm going to need your authorization to get
11 your tax returns, your medical records, some other
12 records. And I said, "Absolutely. I want to
13 cooperate." And she put four pieces of paper in front
14 of me and said, Okay, sign over here for this, sign
15 here for this. Four of them. She put them back in her
16 folder.

17 It just struck me then that I said to my
18 attorneys, "Guys, what did I just do?" You signed four
19 pieces of paper, one for medical, one for taxes, one
20 for -- some other authorization. No. I just did, I
21 agreed to something and I signed a blank piece of
22 paper. Exactly that, what Raymour might have done with
23 some of these people after they agreed to something,
24 sign here. And it became absolutely clear that the
25 basis of this case is that if the Government, if these

1 same prosecutors wanted to get this Ms. Mattias for
2 fraud, all they would have to do is go to anyone and
3 say did Ms. Mattias explain every single paragraph?
4 How about paragraph five where it says under penalty of
5 perjury? That wasn't explained to me. I just signed
6 them.

7 I mean, I expect to tell the truth anyway. But
8 the point was what the Government has done is gone to
9 people who were happy with the arrangement, who wrote
10 thank you notes and agreed to something. And then to
11 go ask them, tell them that I'm a criminal all of a
12 sudden -- if someone came to me and said Ms. Mattias is
13 a criminal and we're investigating her for fraud, and
14 she didn't even put your name on this piece of paper,
15 I would have said, yeah, right, gee whiz, I didn't know
16 I was part of a fraud ring. It's untrue. That's how
17 the people lined up against Raymour and I. And at that
18 point, the truth has to be told at great risk that the
19 Court will punish me forever. I will accept the
20 punishment, whatever. But I have made this motion to
21 withdraw on my plea.

22 Q. What happened on December 8th?

23 A. On December 8th, we were at a meeting with the Men
24 of St. Joseph's. We were praying. It was a Holy Day
25 of Obligation, Immaculate Conception. We have a

1 meeting at 8:00. We go to Mass at 9:00. And right
2 before the meeting we were having Mass Intentions and I
3 said something stupid. And I said, Well, even though
4 suicide is a crime, sometimes it really makes sense for
5 people.

6 And we went to Mass at 9:00, and my family had
7 met me at Mass, and we were out to breakfast. And at
8 breakfast, Mike Lepizzera comes really storming in and
9 says, "I need Joe immediately." And I thought maybe
10 the Feds or somebody, you know, needed to see me for
11 something. He pulls me out and he said, You said
12 suicide and this, we're having an intervention. Mike
13 brought me back to the church where five of the Men of
14 St. Joseph were there and they say, Joe, we don't like
15 to hear this that sometimes suicide makes sense. We
16 want to make sure that your faith is grounded. And I
17 assured them it was. I just wish I was dead. I just
18 went out and lied and agreed to a crime I didn't commit
19 and the whole world was how I wished a truck had hit me
20 but I love my children and wife and parents and
21 everyone else who depends on me. And so at that point
22 I made it clear to Mike and to everyone else, I must
23 get out of this lie and I'm going to pursue.

24 Q. Did you have any conversation with Mr. Lepizzera
25 in the car ride?

1 A. Yes. He wouldn't let me drive. I told him I am
2 seeking to withdraw this ill-advised guilty plea. I am
3 not guilty and if I go to jail forever, that's fine.
4 That's how it is. I need my integrity. And I betrayed
5 myself and put a price on integrity because I had to
6 protect my wife and children but I'm not doing it
7 anymore. My wife is much better now. My children, God
8 bless them, they've been a support system. I am so
9 proud of them to be able to say, Dad, you followed a
10 truth no matter what it cost.

11 Q. Did anything else happen in that return meeting
12 from the restaurant to the group of Men of St.
13 Joseph's?

14 A. Just that Mike assured me he would be my friend
15 for life, my brother in Christ, that he would never get
16 in the way of my freedom or my family security even if
17 I'm saying ineffective counsel.

18 Q. Were there any phone calls made to anybody during
19 the course of that meeting?

20 A. Yes. At that meeting, the gentlemen insisted I
21 call my psychiatrist or I couldn't leave. I had to
22 check in with the psychiatrist and tell her I am
23 suicide ideation, which means I'm not threatening it
24 but how I wish a truck would just hit me so I could be
25 out of this world.

1 Q. Who made you call?

2 A. Mike in particular. So I had to call the doctor
3 then. This was the second time I had called Dr. Xavier
4 to report that I had been talking about suicide, not
5 necessarily committing it, but starting to think it's
6 not the worst idea for some people.

7 Q. What was your understanding as of December 8th as
8 to what disbursements had been made, if any, to
9 Mr. Traini consistent with the \$450,000 total?

10 A. My understanding from day one was always that Mike
11 was successful in staggering the payments over nine or
12 ten months so that Mr. Traini would be paid through the
13 end of February and we wouldn't risk losing money up
14 front, all of it. And I expected a refund of 150 to
15 \$200,000 since we were four days into what would have
16 been a four-month trial. And I was met with very bad
17 news, that, no, it was a non-refundable contract. I
18 would have never agreed to it. I never saw the
19 contract. I didn't sign it. I didn't authorize Mike
20 Lepizzera to enter into a contract which he signed both
21 on behalf of me as my agent and individually to give
22 Traini 450,000 non-refundable that ends as soon as
23 there's a plea.

24 Q. Never saw it?

25 A. Never saw it before. I demanded accountability.

1 Q. Which was when?

2 A. Which is in December, after the 8th. After the
3 8th, I went out and spoke to Robert Flanders and said I
4 need a referral to get attorneys to prosecute my
5 withdrawal of a guilty plea and/or appeals, and Bob
6 Flanders as early as December 12th wrote back to me
7 about some names and other people.

8 Q. Did you ever communicate to the remainder of the
9 Men of St. Joseph's who were there on your return from
10 the restaurant transported by Mr. Lepizzera?

11 A. Yes. On December 8th I wrote them a letter after
12 I spoke to my psychiatrist in the afternoon. I said,
13 Guys, I love you, thank you for caring about me but I
14 promise you I am not leaving this world until God
15 decides when I leave it. So don't worry about any
16 suicide and thanks for being there and know that I'm
17 always there for them.

18 Q. Did you have occasion to meet with Mr. Traini or
19 Mr. Lepizzera after seeking advice from Mr. Flanders?

20 A. Yes.

21 Q. When?

22 A. I met with them on December 14th. It was a
23 Friday. And I believe it was the day of the Newtown
24 shootings because that interrupted our meeting.

25 At that time, I told them that I had been very

1 disillusioned and that I want to pursue withdrawing
2 this guilty plea. And they asked me why. And I told
3 them I was not represented right, that all these
4 questions should have been asked. And they summarily
5 told me you don't know anything about being an
6 attorney. The judge would never allow us to ask
7 Ed Rodriguez who first approached them of the FBI.
8 Well, I would have liked it asked anyway because it
9 seemed no problem to ask Richard Wiley that on the
10 deposition that the judge allowed that question and the
11 Government allowed that question. So they just told me
12 no, the deal's cut, that's it.

13 Days later, I said, Okay, I would like a refund
14 of my retainer that I'm counting on to actually pay new
15 attorneys to prosecute my withdrawal of guilt. And
16 Traini said, Oh, no, that's done. That was a flat fee.
17 Take it up with Mike. He signed the contract.

18 And I've had to pursue Mike and Traini with the
19 Board of Bar Discipline in which I have an extensive
20 opinion by a very well-known attorney that they have
21 violated many different ethical standards, especially
22 entering me into a forfeiture non-refundable agreement
23 with money that I borrowed that was supposed to cover a
24 trial and appeals. I would never agree to that. It
25 would have been dismantled immediately.

1 Q. To your knowledge, did Mr. Traini or Mr. Lepizzera
2 have any contact with your healthcare providers after
3 December?

4 A. Yes. After I told them I was planning in that
5 December meeting or a week before that or some day,
6 they had me sign a whole bunch of blank medical
7 authorizations. Again, I agreed to medical
8 authorizations. If Raymour did it, it's a crime
9 according to the Government. If anybody else does it,
10 it's business as usual. So I signed a whole bunch.
11 And much to my surprise, Mike Lepizzera went to visit
12 my psychiatrist, Sarah Xavier, to review my medical
13 records.

14 Q. When was that?

15 A. That was in the first week of January after he
16 knew fully well that they needed to withdraw from the
17 case and that I was going to hire at the time Mr. Olen,
18 who was highly recommended.

19 Q. E-mails going back and forth in late December?

20 A. Absolutely. About it's a bad idea for me to try
21 to withdraw the plea. The judge will only be mad.
22 He's going to massacre me. All this. Fine. But I
23 told them I lied. On Christmas Day, I sent Mike an
24 e-mail, Jesus came here to tell truth. We all know the
25 truth is that I'm innocent and I lied when I said

1 guilty.

2 Q. Did Mr. Lepizzera indicate to you before he saw
3 Dr. Xavier that he was intending to go there?

4 A. No.

5 Q. When did you find out?

6 A. I found out the next time I saw Dr. Xavier on or
7 around January 10th that she said, By the way, your
8 lawyer was here and reviewed the file with me.

9 Q. Did you ever get an explanation from Mr. Lepizzera
10 why he went out without telling you after December?

11 A. He never could justify it properly.

12 Q. How did he justify it?

13 A. He said, Oh, I needed to go check your medical
14 records for presentencing. Well, it wasn't about
15 presentencing, because I already made it very
16 absolutely clear there is no presentencing. The judge,
17 His Honor will decide if my guilty plea holds, then we
18 start presentencing. But I am not taking
19 responsibility for the crimes nor writing any letters
20 of responsibility.

21 So in my opinion he was there to hope to get
22 information that could help him and Traini.

23 Q. Was he going to the Men of St. Joseph's meetings?

24 A. I have not seen him since January.

25 Q. Have you?

1 A. I've gone to every one, and I wish Michael would
2 join us. I don't want to make a reference in the
3 negative. It may be he's just too busy. I don't want
4 to assume that because I'm there -- as a matter of
5 fact, I've listed publicly a petition that we should
6 pray for Mike Lepizzera's family because he's not
7 there, as well as my own. So --

8 MR. WATT: Judge, may I have 15 seconds, please?

9 THE COURT: Yes.

10 (Pause.)

11 MR. WATT: Judge, I have no further questions.

12 Thank you.

13 THE COURT: All right. Thank you. I think this
14 would be a good time to take a lunch break, and we'll
15 continue with the cross-examination of Mr. Caramadre
16 when we return from lunch.

17 So why don't we say 1:30. All right? We'll be
18 in recess.

19 (Lunch recess.)

20 THE COURT: Mr. McAdams, are you ready to
21 proceed with your cross-examination?

22 MR. McADAMS: Yes, your Honor.

23 **CROSS-EXAMINATION BY MR. McADAMS**

24 Q. Good afternoon, Mr. Caramadre.

25 A. Good afternoon.

1 Q. Mr. Caramadre, you're an attorney, correct?

2 A. Yes.

3 Q. And you've been an attorney for over 20 years?

4 A. Almost 20 years, yes.

5 Q. You specialize in contract law?

6 A. Yes.

7 Q. You read prospectuses for various financial
8 products; is that correct?

9 A. Among other things, yes.

10 Q. You're an expert at this? You read the fine
11 print, correct?

12 A. Well, I've made a living of reading the fine
13 print, yes.

14 Q. You've identified the loopholes that you believe
15 you found in the fine print of contracts, correct?

16 A. Yes.

17 Q. And you've taken the insurance company's -- you
18 make them held to their contracts that they don't even
19 know, correct?

20 A. If you want to put those words in my mouth, I
21 think an insurance company should be held accountable
22 for what they offer to the public.

23 Q. So if somebody enters into a contract, you believe
24 that they ought to be held to the terms of that
25 contract?

1 A. Yes.

2 Q. And that's what you do. You're an expert at
3 identifying the terms of contracts and making sure that
4 you understand them correctly and then going out and
5 getting contracts that are favorable to you, correct?

6 A. Yes.

7 Q. Now, I want to make sure we understand this
8 correctly. It's your testimony that you lied to this
9 Court when you pled guilty; is that correct?

10 A. That is correct.

11 Q. Okay. So on November 19th, 2012, in this
12 courtroom, you were placed under oath and you lied
13 deliberately and voluntarily to the Court?

14 A. I did lie, yes.

15 Q. And now you're saying that that plea agreement was
16 a lie, correct?

17 A. I'm saying that when I agreed to the statement of
18 facts that it was incorrect. I don't agree that I
19 committed any of those. It was a lie when I said yes.

20 Q. Okay. So -- well, you did more than just say yes,
21 didn't you? You didn't just walk in here and asked one
22 question and said yes. There was an actual procedure,
23 wasn't there?

24 A. There was a procedure in which two or three
25 questions had to do with guilt or innocence.

1 Q. Two or three questions. Okay.

2 You were placed under oath and the Court
3 conducted a colloquy with you, did they not?

4 A. Yes, they did.

5 MR. McADAMS: I'd like to mark Government
6 Exhibit 1, which is your plea agreement.

7 THE COURT: We'll take that in as Government 1
8 unless there's an objection.

9 MR. WATT: No, objection.

10 THE COURT: This will be full, Government 1.
11 (Government Exhibit 1 admitted in full.)

12 MR. McADAMS: I'm just going to put the sticker
13 on the back of the last page.

14 Q. Mr. Caramadre, can you see in front of you on your
15 screen?

16 A. Yes.

17 Q. Recognize this document?

18 A. It says "Plea Agreement," yes.

19 Q. All right. This is United States versus Joseph
20 Caramadre?

21 A. Yes.

22 Q. And this was filed here in United States District
23 Court for Rhode Island?

24 A. I believe so, yes.

25 Q. I'm going to turn to the second to the last page

1 of that document. Is that your signature?

2 A. Yes.

3 Q. You signed that document?

4 A. Yes.

5 Q. That's dated on November 19th, 2012?

6 A. Yes.

7 Q. And before you signed that, you read it, you read
8 that plea agreement, correct?

9 A. I'm not sure if I read it.

10 Q. You're not sure if you read it?

11 A. No. I knew it was a plea agreement.

12 Q. You knew it was a plea agreement. And did you
13 read it or did you not read it?

14 A. I can't really answer. It was a very difficult
15 time in my life, and I knew I had to just come here and
16 say guilty.

17 Q. So when you have a question about a contract, you
18 look at the terms of the contract, correct?

19 A. In ordinary course of business when I have
20 capacity, yes.

21 Q. Let's look at paragraph 15. Says: Defendant
22 states that Defendant has read the agreement in the
23 attached statement of facts or has had each read to the
24 Defendant, has discussed each with Defendant's counsel,
25 understands each and agrees to its provisions. Do you

1 see that?

2 A. I see it, yes.

3 Q. Is that what it says?

4 A. Yes.

5 Q. And you understand that a plea agreement is a type
6 of contract?

7 A. I agree. It's a contract.

8 Q. Now, before the Court accepted this plea -- excuse
9 me, let me rephrase that.

10 In connection with this plea agreement, you also
11 executed a document you just referenced, correct,
12 called a statement of facts?

13 A. That is correct.

14 MR. McADAMS: I'd like to mark that as
15 Government Exhibit Number 2 and move for purposes of
16 the hearing into evidence.

17 THE COURT: Any objection?

18 MR. WATT: No objection, Judge.

19 THE COURT: Government 2 will be full.

20 (Government Exhibit 2 admitted in full.)

21 Q. Do you recognize that, Mr. Caramadre?

22 A. Yes.

23 Q. That's the statement of facts in this case?

24 A. Yes.

25 Q. And it's a six-page document. And on the last

1 page, is that your signature?

2 A. Yes.

3 Q. Along with Mr. Vilker and myself and
4 Mr. Radhakrishnan?

5 A. Yes.

6 Q. So you read this statement of facts before you
7 signed it?

8 A. I don't believe I did.

9 Q. You didn't read it?

10 A. No.

11 Q. You didn't go over it with your attorneys?

12 A. No. It was read to me once on Sunday night while
13 my wife and I were under great duress, while I was
14 asking my attorneys how do I go about lying to the
15 judge.

16 Q. So let me stop you there. When you say "How do I
17 go about lying to the judge," you mean lying about
18 these facts?

19 A. Yes.

20 Q. So you knew what these facts said?

21 A. They were read to me and I objected.

22 Q. Did you know what they said?

23 A. They said from 1995 I've been an arch criminal.
24 That's what they said.

25 Q. Let's go through it. Okay? So page one says,

1 "The parties agree that the following facts are the
2 facts of this case: From in or about 1995 through
3 2010, Joseph Caramadre ran a company called Estate
4 Planning Resources."

5 Do you see that first sentence?

6 A. Yes.

7 Q. Can you tell me where it says you're an arch
8 criminal?

9 A. Doesn't say it in that way.

10 Q. Doesn't say it in those statement of facts, does
11 it?

12 A. It doesn't say on that page.

13 Q. Do you want to review the entire document?

14 A. If you want to wait a couple of minutes, I'll be
15 happy to.

16 Q. We've got plenty of time.

17 A. Sure.

18 MR. McADAMS: Your Honor, may I approach?

19 THE COURT: Yes.

20 (Pause.)

21 A. I will concede that it does not have something
22 from '95 saying I'm an arch criminal.

23 Q. Thank you.

24 Will you also concede that you had this
25 statement of facts read to you before you signed it?

1 A. It was read to me on Sunday night by Mr. Traini
2 and it was read, yes.

3 Q. So you understood what the facts were going to be
4 in this document, correct?

5 A. Yes. And I objected to them.

6 Q. I understand you want to make that point, and
7 we'll get to that. But you understood what the facts
8 actually said?

9 A. Well, as best I could.

10 Q. As best you could. Were you confused about what
11 they said?

12 A. I was confused about life itself.

13 Q. You were confused about life?

14 A. Yes. I was completely incapacitated to even read
15 it myself. It had to be read to me.

16 Q. You were physically incapable of reading this
17 document?

18 A. I was mentally incapable.

19 Q. Mentally incapable of reading this document.

20 A. And absorbing it with any acuity.

21 Q. But yet you understood enough to say that it was a
22 lie?

23 A. Well, as soon as it says I entered into a
24 conspiracy in the third or fourth paragraph, it is a
25 lie.

1 Q. So you know in what paragraph it describes you
2 entering into a conspiracy?

3 A. Well, the first two paragraphs merely state that I
4 used annuities and bonds and in the use of terminally
5 ill people. All of that is correct.

6 Q. So there are some facts that are correct in this
7 document, you agree with me on that?

8 A. Yes. There are some facts that state facts that
9 are correct standing alone.

10 Q. So the entire document is not a lie from your
11 perspective?

12 A. No. Just the accusations of crimes are a lie.

13 Q. Just the accusations of crimes?

14 A. That's correct.

15 Q. Okay. We'll go through those. So when you signed
16 this document, you understood what it said, correct?

17 A. I understood to the best I could.

18 Q. Okay. Well, did you tell your attorneys that
19 you're incapable of understanding what it says or what
20 it means?

21 A. I think that they knew that they had to read it to
22 me.

23 Q. Okay.

24 A. That I was not being able to concentrate, under a
25 lot of medication and under tremendous stress.

1 Q. You think that they knew that they had to read it
2 to you, but you never communicated to them verbally
3 that you didn't understand what those facts said? Just
4 the opposite, you said it's a lie?

5 A. I objected to the parts where they say there was a
6 conspiracy or there was any defrauding of anybody and
7 all the other stuff that's in there.

8 Q. Did you go through the document and take a pen and
9 mark which parts you agreed with and which parts you
10 disagreed with?

11 A. No. Because I was already beaten and had conceded
12 that it doesn't matter what the truth is, that you
13 might as well put that I caused the Boston Marathon
14 bombing in there because I need to sign this because my
15 family is at risk. I'm not being defended. I have
16 nowhere to go.

17 Q. Because you had sat through four days of trial and
18 you had seen the evidence come in against you. You
19 didn't like the way that evidence came in. You
20 disagreed with some of the tactical decisions that your
21 attorneys had made. You were convinced that you were
22 going to be found guilty by the jury and you decided
23 that it was in your best interest and in your family's
24 best interest for you to stop the bleeding, in your
25 words, correct?

1 A. I'd like to rephrase that. I saw the attempt of
2 presenting negative information, and I saw no rebuttal
3 to it. So to that point, there was still no direct
4 evidence to me but for the way it was being presented
5 that I'm an investor. But it was a train wreck.
6 There's no question that this was a losing battle.

7 Q. And you knew that you were going to be found
8 guilty, correct?

9 A. Well, I didn't know.

10 Q. You believed that you would be found guilty?

11 A. No, I believed that --

12 Q. I think you testified earlier that you looked at
13 the jury's pads and they had all written guilty on them
14 already, didn't you?

15 A. They should have written guilty.

16 Q. Because you are guilty?

17 A. No.

18 Q. Because the evidence showed that you were guilty?

19 A. The evidence undefended could convince a jury I'm
20 guilty, sure.

21 Q. And you recognized that, right?

22 A. Well, I think anyone could recognize that.

23 Q. Anyone, any rational person who observed the
24 evidence that was presented over those four days of
25 trial would come to the conclusion that you are guilty

1 of the crimes you were charged with?

2 A. Yes. Especially the way it was presented, then
3 undefended.

4 Q. That included yourself. You decided that you were
5 going to be found guilty and it was in your personal
6 best interest to limit the damage, protect yourself,
7 protect your family by entering into a plea agreement
8 with the Government; isn't that correct?

9 A. When someone pleads guilty, they are trying to
10 stop the damage. So yes, I needed to stop the bleeding
11 because I needed to protect my family.

12 Q. And after the bleeding stopped, you changed your
13 mind and now you want to have a do-over?

14 A. I'm going to have a trial.

15 Q. Well, you had a trial, didn't you?

16 A. Not really.

17 Q. Not really?

18 A. No.

19 Q. You weren't in this courtroom on November 13th,
20 2012?

21 A. You, yourself, said it wasn't much of a battle,
22 was it.

23 Q. I did not say that.

24 A. You said it was --

25 Q. I'm going to ask you questions. That's kind of

1 how it works. I know you're an attorney and you're
2 familiar with the procedures, but that's how we'll do
3 it. Okay.

4 So let's go back to your plea agreement. Before
5 you signed the plea agreement, you agree with me you
6 did sign that statement of facts?

7 A. I did sign it, yes.

8 Q. In addition to that, you also executed another
9 document that was presented to you by your attorneys on
10 that same date, did you not --

11 A. Well --

12 Q. -- on November 19th, 2012?

13 A. If you show it to me, I could tell you.

14 Q. Okay. I'll put it up for you.

15 MR. OLEN: Your Honor, could I have
16 Mr. Caramadre complete his answer. I'm having
17 difficulty following because of the interruptions.

18 THE COURT: That's fair.

19 MR. McADAMS: I'll slow down.

20 THE COURT: Slow it down.

21 Q. I'm going to put this on the screen for you. Do
22 you recognize this letter from Mr. Traini, November
23 19th, 2012, and it has a second page with your
24 signature at the bottom?

25 A. I definitely recognize my signature, yes.

1 MR. McADAMS: I'm going to mark this, your
2 Honor, as Government's Exhibit Number 3 and move it
3 into evidence.

4 THE COURT: Any objection?

5 MR. WATT: No objection.

6 THE COURT: Government 3 will be full.

7 (Government Exhibit 3 admitted in full.)

8 Q. Mr. Caramadre, do you remember meeting with your
9 attorneys to discuss the plea agreement and the
10 statement of facts?

11 A. I remember on Sunday night before I pled, yes.

12 Q. And you had mentioned in your direct testimony
13 that before the trial started, approximately a week
14 earlier, that Mr. Traini and Mr. Lepizzera went over
15 with you the potential punishment that you might face
16 if you're convicted at trial and had you read a
17 document and you signed it, and that document
18 specifically told them they were not to enter into plea
19 negotiations with the Government?

20 A. That is correct.

21 Q. So that document wasn't shown to you in your
22 direct testimony but you do remember it, and it was a
23 document similar to this on Mr. Traini's letterhead?

24 A. It was a rather long document, I believe, yes.

25 Q. Numerous pages and it references --

1 A. Maybe about 10 or 13, yes.

2 Q. And it referenced each of the potential penalties
3 and what the --

4 A. That's correct.

5 Q. -- the potential guideline enhancements --

6 A. Yes.

7 Q. Before you signed the plea agreement, or at the
8 same time that you signed the plea agreement, you also
9 signed this document with Mr. Traini and Mr. Lepizzera,
10 correct?

11 A. I assume so. It says November 19th. It is my
12 signature, yes.

13 Q. Let's go through this a little bit. It says this
14 correspondence is intended to further discharge our
15 obligations with respect to the potential sentencing
16 consequences in the above matter. Then it references:
17 "As you know from our previous correspondence on
18 September 13th that the Supreme Court recently
19 reaffirmed the Sixth Amendment right of any criminal
20 defendant to effective assistance of counsel extends to
21 the plea bargaining process."

22 And Mr. Traini and Mr. Lepizzera explained to
23 you that their obligations under this recent Supreme
24 Court precedence is that they had to communicate to you
25 any plea agreements, correct?

1 A. Yes.

2 Q. That was the purpose of that original letter,
3 right?

4 A. Yes.

5 Q. They needed to comply with their obligations under
6 the law?

7 A. That's correct.

8 Q. Now, the second paragraph states: Now -- well,
9 let me rephrase that. The last two sentences of the
10 first paragraph where it says "On September 13th"?

11 A. Yes.

12 Q. It says, "We advised you in detail of the
13 potential sentencing consequences following trial
14 convictions on the pending charges and requested that
15 you allow us to open plea negotiations with the
16 Government. You declined our request and so indicated
17 by executing our earlier correspondence." Correct?

18 A. That is correct.

19 Q. You had read that at the time, and you had
20 specifically ordered them not to commence plea
21 negotiations?

22 A. Whether I read it in detail or not, I did not
23 authorize plea negotiations. I did not want them
24 negotiating any pleas.

25 Q. Now, the next paragraph says, "Now, however, the

1 circumstances have change significantly. As you know
2 from the events of the past several days, on Thursday,
3 November 15th, you authorized us to open plea
4 negotiations with the Government and we did so." Is
5 that what it says?

6 A. Yes. It says that.

7 Q. You signed that document?

8 A. Yes, I did.

9 Q. You came to your attorneys and authorized them to
10 commence plea negotiations, correct?

11 A. I asked my attorneys to find out if we could work
12 something out given the gravity of the circumstances.

13 Q. That idea came from you. They weren't pestering
14 you that morning, Joe, can we get a plea; Joe, can we
15 get a plea?

16 A. No. They knew my wife was sick and I was very
17 concerned about her. And as soon as I opened the door
18 for them, I think everyone was very happy.

19 Q. You had specifically commanded them not to conduct
20 plea negotiations prior to this, correct?

21 A. That's correct.

22 Q. And this is a letter acknowledging that you were
23 revoking that command?

24 A. Yes. I did not enter into plea negotiations
25 pretrial because I assumed there would be an adequate

1 and effective defense.

2 Q. You've testified to that before. All right.

3 So it says, "Those discussions with you and the
4 Government, which continued into the following day,
5 produced the framework of a proposed plea agreement
6 which we conveyed to you and which you asked us to
7 pursue. The proposal consisted in part of a package
8 plea including Mr. Radhakrishnan and involved lengthy
9 discussion with Mr. Radhakrishnan and Mr. Thompson, his
10 currently court-appointed standby counsel, who
11 Mr. Radhakrishnan asked to handle plea negotiations for
12 him. We pursued this proposal as you requested, and
13 over this past weekend on Saturday and Sunday we spent
14 significant time and effort developing a plea
15 agreement, which included a negotiated statement of
16 facts, both of which you approved on Sunday night,
17 November 18th." Correct?

18 A. Well, it says that. I objected to it on Sunday
19 night, November 18th.

20 Q. You did sign this document?

21 A. I did sign, yes. No question.

22 Q. You didn't write "I object" anywhere on there, did
23 you?

24 A. No, I don't think I could spell "I object" on
25 Sunday night; however, I was committed to having to go

1 through with this.

2 Q. So you were -- I'm very confused here because your
3 descriptions of the tactical decisions that Mr. Traini
4 and Mr. Lepizzera made are very clear that you
5 disagreed with how each particular witness was
6 cross-examined. You wanted them to be more aggressive.
7 You had certain opinions about the effectiveness of the
8 lack of an opening statement. You're very clear about
9 your memory as to how the trial proceeded, as to what
10 your thoughts were about the fact that you objected to
11 the statement of facts, you claimed that it was a lie,
12 and yet you tell me that you don't know how to spell
13 the word "object." You couldn't read. You don't know
14 if you signed it. So which was it?

15 A. It was that I was under considerable duress,
16 suffering from severe depression and I had lost hope.
17 I didn't believe my attorneys could defend me, and it
18 was the only thing I knew to do to protect my family.

19 Q. Okay. So let's turn to the second page of this
20 document. In that last paragraph it states, "I, Joseph
21 Caramadre, with full appreciation of the possible
22 sentences which could be imposed upon me following any
23 trial conviction in the above-captioned case have
24 specifically revoked my earlier order to my counsel not
25 to engage in plea negotiations with the Government and

1 have instead requested that they attempt to reach a
2 plea agreement on my behalf in an effort to resolve the
3 above-referenced case without further trial
4 proceedings. I understand that counsel have done so
5 and have negotiated with the Government on my behalf a
6 plea agreement and supporting statement of facts, the
7 above-referenced plea documents. I have been
8 extensively involved in those discussions and have
9 reviewed in detail with counsel both over the telephone
10 and in person the terms of the plea documents and
11 acknowledge that they fairly and accurately express my
12 position with respect to the resolution of this case.

13 I believe it to be in my best interests to
14 execute the plea documents and proceed with the change
15 of plea. I have read, understood and executed the plea
16 documents and incorporate them by reference into this
17 correspondence as the basis of my change my plea in
18 this matter as provided therein."

19 That's your signature, correct?

20 A. That is correct.

21 Q. You didn't write any objections on there?

22 A. No.

23 Q. I'd like to go back to Exhibit 1, which is your
24 plea agreement and cover some of the terms of that
25 document.

1 First of all, you testified on direct that
2 you've seen what the guidelines were in this case based
3 on the draft presentence report, and it turns out that
4 they're actually life, right?

5 A. Yes. They could be life, sure.

6 Q. So your attorneys got you a pretty good deal?

7 A. My attorneys got me a deal that they're proud of
8 but I'm not.

9 Q. So you're facing a potential life sentence, and
10 they have capped your exposure at ten years?

11 A. That's correct. It's not a good deal. If you're
12 innocent, no time --

13 Q. We'll get to that part in a minute.

14 A. Okay.

15 Q. So let's look at paragraph 7 of the plea agreement
16 on page three.

17 Beginning with paragraph 7B -- well, 7 says,
18 "Defendant is advised and understands that," and part
19 B, "that the Defendant has the right to plead not
20 guilty or having already so pleaded to persist in that
21 plea." Do you understand that?

22 A. Yes. That's what it says.

23 Q. Do you understand what that means?

24 A. Yes. Okay. Yes.

25 Q. You could say you're not guilty and keep going and

1 keep saying you're not guilty, right?

2 A. Right.

3 Q. Paragraph 7C says, "The Defendant has a right to a
4 jury trial." Do you understand that?

5 A. Yes.

6 Q. In fact, we were in a jury trial, correct?

7 A. Yes.

8 Q. They were sitting right here in this jury box and
9 it had taken literally months to pick them, correct?

10 A. Yes.

11 Q. And in 7D it says, "Defendant has the right to be
12 represented by counsel and if necessary to have the
13 Court appoint counsel at trial and at every other stage
14 of the proceeding." Do you recognize that and
15 understand that?

16 A. Yes, I do.

17 Q. Paragraph 7E says that, "The Defendant has the
18 right at trial to confront and cross-examine adverse
19 witnesses, to be protected from self-incrimination, to
20 testify and present evidence, and to compel the
21 attendance of witnesses."

22 Do you see that?

23 A. I see it, yes.

24 Q. You understood what those rights were?

25 A. Pretty much, yes.

1 Q. Pretty much or yes?

2 A. Well, yes. I don't know if I understood it pretty
3 much when I read it, but I understand what it says.

4 Q. You understood it when you went to law school,
5 right?

6 A. Maybe not. I don't know.

7 Q. No? When you took the Bar exam, you didn't know
8 that a criminal defendant in a criminal case has the
9 right to cross-examine adverse witnesses?

10 A. I don't want to comment what I learned in law
11 school, even though I graduated with honors. I don't
12 really know what I learned there.

13 Q. So you've been an attorney for 20 years. How long
14 have you been an American citizen?

15 A. All my life.

16 Q. And as you sit here now, you're telling us you
17 don't know if you understand that a defendant has a
18 right at trial to confront and cross-examine adverse
19 witnesses?

20 A. I believe a defendant has a right to confront and
21 cross-examine. I understand that part.

22 Q. In fact, that's the large part of your complaint
23 here. You don't like the way your attorneys
24 cross-examined your witnesses, correct?

25 A. Not only don't I like, but they were not effective

1 in preparing or carrying out a defense.

2 Q. That's your opinion, correct?

3 A. Absolutely.

4 Q. Now, you understand that paragraph 7F, it then
5 says, "Defendant waives these trial rights if the Court
6 accepts a plea of guilty."

7 A. That's correct.

8 Q. You understand that by signing that plea agreement
9 and going through a plea colloquy with the judge that
10 by doing that you're giving up all those rights?

11 A. Yes.

12 Q. And you're never going to get them back?

13 A. Yes.

14 Q. Again, just turning your attention to paragraph
15 15, states that, "The Defendant has read the agreement
16 and the attached statement of facts or has read each to
17 the Defendant, has discussed each with Defendant's
18 counsel, understands each and agrees to its
19 provisions." Is that what it says?

20 A. That's what it says, yes.

21 Q. Do you understand what that means?

22 A. I understand what it means now.

23 Q. Are you saying you didn't understand that on
24 November 19th?

25 A. I'm saying on November 19th I would have signed

1 anything that anyone would have put in front of me
2 without reading it or understanding it.

3 Q. And you're an expert in contract law?

4 A. Well, that's what you say, yes.

5 Q. That's not what I say. That's what you told
6 folks, right?

7 A. Well, I understand contract --

8 Q. Is that what you told reporters from the
9 ProPublica piece?

10 A. Is there a question?

11 Q. Withdrawn. Now, before the Court accepted that
12 plea agreement from you, you were engaged in a
13 colloquy, correct?

14 A. A colloquy is the recital of the judge of certain
15 things, yes. I never heard the word until it came up
16 now in seeking to withdraw but, yes, I was engaging in
17 questions by the judge.

18 Q. So you remember standing here at this table and
19 standing up and being placed under oath by the Court?

20 A. Yes, I do.

21 Q. And the judge asked you a series of questions?

22 A. Yes. Yes.

23 Q. And the judge explained to you that the reason
24 that he's asking those questions was to make sure that
25 you understood what you were doing, correct?

1 A. That was the reason he was asking me questions,
2 yes.

3 Q. And to make sure that you wanted to enter the plea
4 agreement and you understood what rights you would be
5 giving up by doing that, right?

6 A. That's correct.

7 Q. And in fact, during that colloquy, the Court
8 specifically asked you, "Mr. Caramadre, so you've been
9 sworn. I'm going to ask you a series of questions.
10 You're expected to answer all of my questions
11 truthfully. If you fail to answer any of my questions
12 truthfully, it could lead to additional charges against
13 you for perjury or making a false statement. Do you
14 understand that?" And you answered, "Yes, your Honor."

15 A. I'm sure I answered yes.

16 Q. You weren't hallucinating at that point in time,
17 correct?

18 A. No. I knew I had to answer yes and plead guilty.

19 Q. Because if you didn't, the trial would keep going
20 and you would be found guilty?

21 A. If we didn't, the trial would have to keep going
22 under a different setting. My attorneys may have to
23 withdraw, and there would be substantial disruption.

24 Q. When did that come up for the first time?

25 A. It didn't come up. I didn't have any choice but

1 to plea or fire my attorneys.

2 Q. When did you come to that conclusion?

3 A. I came to my conclusion when I was told by counsel
4 after the fact that I should have gone to the judge and
5 just tell him that I am woefully losing because my
6 attorneys are not defending me.

7 Q. Who told you that, what counsel?

8 A. Some friends of mine that have some legal
9 experience.

10 Q. Do they have a name?

11 A. Yes.

12 Q. What is it?

13 A. I believe Arthur Coia told me.

14 Q. Arthur Coia told you that?

15 A. Yes.

16 Q. Okay. He told you you should go to the judge and
17 say what?

18 A. I should have gone to the judge.

19 Q. He told you you should have gone to the judge and
20 done what?

21 A. And say my lawyers have not made any reasonable
22 defense of cross-examination. They keep telling me
23 we're going to bring the witness up when it's the
24 defense case. We're not going to get to a defense
25 case. I have lost hope after two days. My wife is

1 sick. I'm under pressure. I need to fire the
2 attorneys.

3 Q. You came to the conclusion --

4 A. And I cannot represent myself in my mental state
5 right now or I would have done it.

6 Q. You came to the conclusion that you would not have
7 an opportunity to have a defense case?

8 A. That's correct.

9 Q. Who told you that?

10 A. Because I was bombarded by Mr. Traini and
11 Mr. Lepizzera and being told that every day that goes
12 by I'm facing more time, and I'd have to kill this as
13 soon as possible.

14 Q. We'll talk about that in a second. But that's not
15 what my question was. My question was who told you
16 that you would not have an opportunity to have a
17 defense case?

18 A. I don't know if anyone told me except that there
19 was 60 days planned of Government witnesses; and on the
20 first three or four days, we couldn't get ourselves out
21 of the box. It was --

22 Q. Actually, the first day went pretty much as you
23 exactly expected, didn't it?

24 A. The first day without an opening statement.

25 Q. Which you testified on direct that you had had

1 conversations with your lawyers about reserving opening
2 statement and that you had --

3 A. I was not objecting to not having an opening
4 statement.

5 Q. Not only were you not objecting, you agreed with
6 it?

7 A. I agreed with it on the presumption there would be
8 an adequate defense in cross-examination.

9 Q. It's a tactical decision. Some people like to
10 have their opening statement at the beginning of the
11 trial and some in a case like this where you're
12 planning on presenting a lengthy defense might reserve.
13 Do you agree with that?

14 A. I agree with that. If I would have been told, By
15 the way, we're not going to cross-examine anything more
16 than peripheral, then I would have objected to the lack
17 of opening.

18 Q. That's a separate question. We'll deal with the
19 cross-examination separately. With respect to the
20 opening statement, Mr. Traini and Mr. Lepizzera
21 explained to you that they thought that it was best to
22 reserve opening statement, correct?

23 A. I believe they explained it to me. And let's
24 concede that I agreed with it.

25 Q. Let's concede that you agreed with it. Okay?

1 A. Yes.

2 Q. So this big complaint that you put in your motion
3 to withdraw your guilty plea that they were ineffective
4 because they didn't give an opening statement, you're
5 retracting that?

6 A. No. We said in the complaint that an opening
7 statement standing on its own is not reason for
8 ineffective counsel, but that combined with very weak
9 cross-examination is tantamount to an overwhelming
10 evidence coming in undefended.

11 Q. That's your position. So even though you concede
12 that you agreed with your attorneys that they shouldn't
13 do an opening statement, that they should reserve it
14 and do it at the time of the defense case, that you're
15 now standing here and saying that they should have done
16 that and that they were ineffective by not giving an
17 opening statement?

18 A. No. I'm saying that they should have put me on
19 notice that they don't plan on vigorously
20 cross-examining witnesses.

21 Q. Like I said, that's a separate question, right?
22 We're talking about opening statement?

23 A. However, I am saying that in conjunction with the
24 opening statement, had they properly informed me that
25 they planned on laying down, then I would have objected

1 to skipping the opening statement.

2 Q. Okay. So if they had told you "We plan on laying
3 down," then you would have said, "If you're going to
4 lay down, at least give an opening statement"?

5 A. I probably would have fired them as well.

6 Q. Because they didn't plan on laying down, did they?

7 A. Well, they ended up laying down.

8 Q. We'll talk about the first day of the trial. It
9 went exactly as you anticipated, did it not?

10 A. The first day --

11 Q. You expected, correct me if I'm wrong, you
12 expected that the Government, either Mr. Vilker or
13 myself, would stand up and address the jury and give an
14 opening statement, correct?

15 A. That's correct.

16 Q. And that's what happened, correct?

17 A. Yes.

18 Q. Okay. And you expected that your attorneys would
19 reserve their opening statement, correct?

20 A. I expected that, yes.

21 Q. And that's what happened, right?

22 A. Day one there was nothing more we could do.

23 Q. You understood that the first witness that was
24 going to be testifying from the Government was going to
25 be Mr. Wiley who had passed away and whose testimony

1 had been deposed in 2009, correct?

2 A. I understood that, yes.

3 Q. That was the testimony of Mr. Wiley that you had
4 moved to suppress earlier in the case, correct?

5 A. That's correct.

6 Q. You didn't want the jury to hear his testimony,
7 correct?

8 A. Well, I don't think it was right for the jury to
9 hear his testimony when you brought so many other
10 witnesses who were not the purported victims, so why
11 would we need to preserve the testimony of people in
12 that setting; but nonetheless, we knew we could not
13 cross-examine.

14 Q. You knew that his testimony would be presented?

15 A. Yes.

16 Q. And you knew that actually he would be
17 cross-examined, correct, because you knew that he had
18 been cross-examined by Mr. Flanders and Mr. Pine?

19 A. And also I knew the jury didn't understand as well
20 as who was really cross-examining because all we had
21 was a picture of a nice old man with oxygen on.

22 Q. So for all the jury knew, it may have been
23 Mr. Traini and Mr. Lepizzera conducting that
24 cross-examination, correct?

25 A. For all they knew, it was you conducting the

1 cross-examination.

2 Q. Okay. Even though at the beginning of the playing
3 of the video deposition each of the parties is
4 identified and I was routinely referred to as
5 Mr. McAdams, correct?

6 A. Well, you might have been. But when there's a
7 line of questioning and you can't see the person ask a
8 question and we have to rely on this information, there
9 are risks with its true value.

10 Q. So one of your problems you have with the trial
11 was maybe the jury was confused as to who was doing the
12 cross-examination?

13 A. On the videotape.

14 Q. But you actually liked the cross-examination that
15 was done by Mr. Flanders and Mr. Pine, correct?

16 A. Well, I thought it was very effective, yes.

17 Q. In fact, you insisted to Mr. Traini and
18 Mr. Lepizzera that they play it, correct?

19 A. Well, yes, of course.

20 Q. Because you wanted the jury to hear the questions
21 that they asked Mr. Wiley?

22 A. Because when put in a position where the
23 prosecution is going to play their end of the
24 videotape, I have no choice but to insist that we put
25 the cross-examining part in it.

1 Q. Well, you had a choice.

2 A. I had a choice, but I had no reasonable choice.

3 Q. You had a choice or didn't have a choice. Which
4 is it?

5 A. Well, I had a choice and -- let's leave it I had a
6 choice.

7 Q. And you chose to have them play that
8 cross-examination?

9 A. Yes. I chose, yes.

10 Q. And you liked that cross-examination so much that
11 you put in your motion to withdraw the guilty plea that
12 that's the type of cross-examination that Mr. Traini
13 and Mr. Lepizzera should have done with the other
14 witnesses?

15 A. I liked that cross-examination because it exposed
16 the malicious prosecution of your office.

17 Q. That's your theory. I understand that.

18 But you liked it. So what happened on the first
19 day of trial was you got what you expected and you got
20 what you wanted, right?

21 A. I got whatever was there.

22 Q. You got the Government exposed --

23 THE COURT: One at a time, okay, Mr. McAdams.

24 Q. Did you get what you wanted that day?

25 A. No. I would have liked that the whole deposition

1 not be allowed.

2 Q. You would have liked that the jury never heard
3 Mr. Wiley's testimony.

4 A. There were plenty of other witnesses that can be
5 dealt with.

6 Q. But you liked that there was some type of
7 allegation that the Government engaged in misconduct?

8 A. Yes.

9 Q. You liked that?

10 A. I liked it. I don't think the jury understood it.

11 Q. On balance, it was a good day, day one?

12 A. No. On balance, it was a fair day. It was all we
13 could get. We were waiting for day two where we get
14 our balance.

15 Q. You were waiting for day two. We'll get to that,
16 but we're still on some other issues at this point.

17 So before, we were talking about your plea
18 agreement and before the Court accepted the plea
19 agreement, you just indicated that you were placed
20 under oath and you understood that, correct?

21 A. Correct.

22 Q. And then the judge asked you about your mental
23 competence. Do you remember that?

24 A. The judge asked me if me taking those pills is
25 affecting my judgment.

1 Q. Actually, what he asked you --

2 A. Or just repeat it for me. I don't remember.

3 Q. He said, "Have you been treated recently for any
4 mental illness or addiction to narcotic drugs?"

5 A. Yes.

6 Q. And you answered that you had been treated for
7 mental depression both lately and for the last 20
8 years, correct?

9 A. That's correct. Yes.

10 Q. Then Mr. Traini interjected and he said, "Excuse
11 me, your Honor, if I may." And he said, "I have a list
12 with me of Mr. Caramadre's medications so that we don't
13 have to go through them." Correct? Do you remember
14 that?

15 A. That's correct. And Mr. Traini walked it up to
16 the judge and gave it to him.

17 Q. Right. And then the Court said, "Can we just
18 confirm with respect to Mr. Caramadre that you fully
19 understand all the proceedings that are going on here,"
20 correct?

21 A. More than likely I answered yes.

22 Q. You answered, "That is correct, your Honor."

23 A. Yes.

24 Q. You didn't say, I don't understand, I don't know
25 what "object" means. I need things read to me.

1 You didn't do anything like that, did you?

2 A. No. Because the judge is asking me am I impaired
3 enough to not understand this. And in my opinion, I
4 was okay. I could answer the question.

5 Q. You understood exactly what was going on?

6 A. I understood to the extent that I was pleaing
7 guilty, yes.

8 Q. Your free will wasn't overborne; you knew what you
9 were doing?

10 A. I knew that my mission was to plead guilty, yes.

11 Q. That was your mission, to plead guilty?

12 A. Yes. It was, again, in my opinion of how I felt,
13 there was no hope. This was the only way out.

14 Q. Now, the Court then asked you -- actually the
15 Court then asked your attorneys if counsel could please
16 confirm that, and they did. Do you recall that?

17 A. Yes. I presume my attorneys are educated and
18 competent to answer whether my depression would affect
19 my judgment or capacity.

20 Q. You presumed that?

21 A. No. They presumed they were.

22 Q. Did you say, "Judge, I don't think they're in a
23 position to answer that question"?

24 A. No. I don't know. I'm not a doctor.

25 Q. In fact, two seconds earlier you told the judge

1 that you were competent?

2 A. That I understand the proceedings.

3 Q. Right. Now, after that the judge asked you if you
4 had seen a copy of the Government's charges against you
5 and you answered, "That is correct, your Honor."

6 A. Okay.

7 Q. And he asked you if you had a full opportunity to
8 discuss all these charges with your counsel. And you
9 answered, "Yes, your Honor."

10 A. Yes.

11 Q. You read the indictment against you?

12 A. I'm sure I read it.

13 Q. Right. It was a 66-count speaking indictment?

14 A. Yes.

15 Q. You're familiar with that document?

16 A. Somewhat, yes.

17 Q. Somewhat?

18 A. Yes.

19 Q. Did you read it?

20 A. I'm sure I did.

21 Q. And you understood what it said you had done?

22 A. Oh, it said a lot of things.

23 Q. It accused you of some pretty bad crimes, correct?

24 A. Yes. Yes. It was very descriptive.

25 Q. So you were familiar with what those accusations

1 were?

2 A. I was familiar with the accusations, yes.

3 Q. You understood what those charges were?

4 A. I understood them as best as I can. I'm not a
5 criminal defense attorney, but they were on their face
6 whatever they were.

7 Q. Now, then the Court next asked you if you had full
8 opportunity to discuss all the charges against you and
9 the plea agreement and the consequences of the plea
10 agreements with your attorneys before you signed them.
11 Do you remember that?

12 A. Yes.

13 Q. You answered, "Yes, your Honor."

14 A. Yes.

15 Q. Because you had?

16 A. Because I was answering yes to anything that would
17 effect a guilty plea.

18 Q. Because no matter what, you wanted to plead guilty
19 and move on with your life?

20 A. I needed to protect my family; and if this was the
21 only way it could get done, then that's how it was
22 going to be done.

23 Q. And that was a product of your free will based on
24 your decision that this was in your family's best
25 interest?

1 A. Based on the fact that my depression had peaked.
2 I could not represent myself as I would have liked to
3 upon firing attorneys, and the damage was already done
4 by the lack of representation on cross.

5 Q. So then we get to the next question the judge
6 asked. Then the next thing he asked you was, "Are you
7 fully satisfied," and then he stopped and he said,
8 "First of all, were your counsel able to answer all of
9 your questions regarding all the charges and the terms
10 of the plea agreements with you." You answered, "Yes,
11 your Honor."

12 A. I'm sure I answered yes.

13 Q. Then he went on to ask you, "Are you fully
14 satisfied with all the representation that you've
15 received in this case from your respective counsel?"

16 A. I'm sure I answered yes to anything that the Court
17 asked me.

18 Q. Right. You said yes. You were under oath, the
19 same oath you're under right now.

20 A. Yes.

21 Q. And the Court asked you questions to make sure you
22 knew what you were doing and you told him you did?

23 A. Yes. I told him that I understood I was pleading
24 guilty, yes.

25 Q. And you did understand you were pleading guilty?

1 A. Well, I probably did understand, yes.

2 Q. You didn't think you were at Disneyland?

3 A. No. Not on Monday, no.

4 Q. Now, the next question that you were asked was,
5 "Has anyone made any promises to you of any kind in
6 order to get you to" -- and then he paused and said --
7 "other than what's contained in the plea agreement, of
8 course, in order to get you to plead guilty in these
9 cases." And you answered, "No, your Honor."

10 A. Correct. No one made any promises.

11 Q. Mr. Traini didn't promise you what your sentence
12 would be?

13 A. No. He did not promise me.

14 Q. Did he give you a best estimate of what the Court
15 might do after they made their arguments to the Court
16 on your behalf?

17 A. Yes. I was saddened to find out in January that
18 both my counsel thought I was going to be getting five
19 or six years when pre-signing that document I was told
20 little or no time.

21 Q. Well, a minute ago I just asked you if Mr. Traini
22 didn't tell you or promise you how much jail time
23 you're going to get. Now you're saying he promised you
24 or told you that you'd get little to no jail time?

25 A. There's a difference between the word "told" and

1 "promised."

2 Q. Which did he do?

3 A. Told me.

4 Q. What did he say exactly?

5 A. He said that we could expect little to no time
6 given my otherwise outstanding citizenry, this being a
7 first-time offense, non-violent, all these other
8 characteristics, and the fact that Judge Smith had no
9 particular mandate to have to punish me because I don't
10 fall into those two categories that he enumerated that
11 there would be a mandate of sorts.

12 Q. Mr. Traini's been an attorney in Federal Court for
13 many years, correct?

14 A. Yes.

15 Q. He's tried a number of high profile cases; is that
16 correct?

17 A. Um-hum. (Affirmative.)

18 Q. And it's your testimony that he told you that this
19 judge only sends two types of criminals to prison?

20 A. Well, this judge is under pressure to send only
21 two types to prison. Now, he doesn't say he only sends
22 those. He said -- he basically told me if I were a
23 public official and was taking a bribe, that would be
24 one where the judges in general would want to punish
25 people in jail because of the public policy interests.

1 And also, if it was a violent crime and there were
2 victims, a judge is inclined to want to punish people.
3 But anything else, you don't fall into that category.

4 Q. So he gave you some examples of other types of
5 defendants that might be worse off at sentencing than
6 you would be, correct?

7 A. Much worse off, yes.

8 Q. And he tried to explain that to you by way of
9 presentation that he would make and Mr. Lepizzera would
10 make to the Court on your behalf at the time of
11 sentencing, right?

12 A. Yes. He said that the presentencing would be
13 important because Judge Smith needs to know who I
14 really am.

15 Q. He explained to you that this wasn't the end of
16 the work for the attorneys. There's a whole process
17 that goes forward after the guilty plea, correct?

18 A. Well, that's what he said, yes.

19 Q. Right. And they were going to have to try to go
20 out there and reach out in the community and find
21 people that would speak on your behalf, and he was
22 confident that he would be able to do that?

23 A. That's what he said.

24 Q. And they were going to try to do everything they
25 could to put a presentation together for the Court to

1 persuade the Court within the confines of the plea
2 agreement to give you the best sentence that you could
3 get, right?

4 A. That's correct.

5 Q. So he didn't promise you you were going to get --

6 A. I never said he promised me.

7 Q. You agree with me that he didn't.

8 A. I absolutely agree. I've never said he promised.

9 Q. So you had no promises as to what was going to
10 happen?

11 A. No. I had no promise. I was just told.

12 Q. Now, after that the Court went through and
13 explained to you the maximum penalties that you would
14 face in the terms of the plea agreement, correct?

15 A. I assume so, yes.

16 Q. He walked you through the explanation of what the
17 sentencing guidelines are. Do you remember that?

18 A. Yes.

19 Q. And then, just like we looked at on your plea
20 agreement, the Court then went through some trial
21 rights that you would have. Do you remember that?

22 A. Trial what, please?

23 Q. Trial rights.

24 A. Trial rights. Yes.

25 Q. Such as the right to say I'm not guilty and

1 persist in that right?

2 A. Yes.

3 Q. And the Court reminded you that you could continue
4 in that plea?

5 A. That's correct.

6 Q. And that you had the right to remain silent and
7 the right to compel witnesses and so on, just the same
8 types of rights that we just saw in the plea agreement?

9 A. Yes.

10 Q. And then the Court after explaining all those
11 rights to you again asked you, "Now by entering this
12 plea of guilty today, you're giving up all these rights
13 that I just described to you, and you understand that
14 there will be not be or we will not complete the trial
15 in this case. Do you understand that?" And you
16 answered, "Yes, your Honor."

17 A. I'm sure I did.

18 Q. So you knew that all the year of preparation for
19 that trial, the month that went into picking that jury,
20 all the work that had been done, that once you did that
21 and if the Court agreed and accepted the plea that that
22 was over, those jurors were going home, the trial was
23 over, we weren't going to keep going with the next
24 witness and you weren't having your trial?

25 A. I agreed that by me pleaing guilty it stops the

1 trial, yes.

2 Q. You weren't going to have your chance to put that
3 defense case on?

4 A. I was waiving or giving up that right because of
5 the desperation involved, that's correct.

6 Q. You were giving up that opportunity that
7 Mr. Lepizzera had talked to you about calling
8 Edwin Rodriguez back to the stand and asking him some
9 questions, right?

10 A. I absolutely was giving up that opportunity, yes.

11 Q. You weren't going to be able to call Ann Scuncio
12 and ask her if she gave a copy of the power of
13 attorney, correct?

14 A. Yes. Because I already was beaten down and
15 feeling that my attorneys were not acting to my
16 interests and, therefore, we'd never be defending
17 anybody.

18 Q. You talked about that a little bit on direct. You
19 said how you had a lot of respect for their skills as
20 attorneys, correct?

21 A. Yes.

22 Q. And it wasn't any of their ability that you
23 questioned?

24 A. I believe I'm questioning strictly their
25 willingness.

1 Q. Their willingness. So you're basically saying
2 they Cape-Feared you, right? They did what --

3 A. What does Cape Fear mean?

4 Q. -- Nick Nolte did to Robert De Niro in the movie
5 *Cape Fear*. They got you convicted on purpose.

6 A. No. I don't think it was on purpose.

7 Q. Did they want you to be convicted?

8 A. I think they wanted to end this.

9 Q. And why would they want that?

10 A. Because it was going to be a long struggle, long
11 trial. Everyone wanted it to end. And Tony Traini
12 gets prepaid for not finishing.

13 Q. That's really what you think. You think that
14 Mr. Traini, he had this fee agreement with you, and he
15 was going to tell you to plead guilty and keep all the
16 money, right?

17 A. Well, looking back, the fact that they drew down
18 the retainer and I'm told for the first time it's a
19 non-refundable fee, it makes all the sense in the world
20 to tell me to plea.

21 Q. You testified on direct that you were shocked,
22 that you had no idea that you had entered into this
23 agreement to pay him this way, correct?

24 A. That's right.

25 Q. And you were shocked that he might get a windfall.

1 If you got hit by a car the next day and died, he would
2 make this money, right?

3 A. I was shocked, yes.

4 Q. Does this sound a lot like the scam that you and
5 Mr. Radhakrishnan pulled on the terminally ill people?

6 A. No. No. There was no scam.

7 Q. Before you found out that Mr. Traini had this fee
8 arrangement, you were pretty happy with the deal,
9 weren't you?

10 A. If, in fact, someone is drawing down 50,000 a
11 month of money that I have to borrow, that was what I
12 had to agree to, that's what I authorized.

13 Q. You were happy with Mr. Traini because you didn't
14 have any reason to think that he had tricked you in any
15 way?

16 A. No. I didn't until --

17 Q. And then when you found out that you thought maybe
18 he tricked you, you became upset?

19 A. I was certainly upset that I had the right to know
20 as a consumer and a client, by the way, Mr. Client,
21 when you sign this plea agreement, I'm getting a
22 windfall. I'm an attorney. I do not lose my morals
23 because I'm depressed. Okay? A client has a right to
24 know that there could be more than uninterested advice
25 before they make a lifetime landmark decision.

1 Q. You're an attorney for 20 years, expert in
2 contracts who reads the fine print, scours the fine
3 print, looks for loopholes, and you felt blind-sided
4 when you found out that maybe you didn't fully
5 understand the terms of the deal you entered into; is
6 that right?

7 A. No. I felt blind-sided that I wasn't informed.
8 It's not that I didn't understand them. I would
9 understand "non-refundable," and I would have vetoed
10 the deal right up front, period.

11 Q. Now, you did testify that you knew what the fee
12 arrangement was verbally with Mr. Lepizzera, correct?

13 A. Only to the extent that Traini was drawing down
14 50,000 a month.

15 Q. Well, you testified that it was supposed to be he
16 wanted a million dollars.

17 A. Right.

18 Q. And he agreed to take 500,000, right? And then
19 you both agreed to make it 450,000, correct?

20 A. As long as I could get all the money in up front.

21 Q. Right. So as long as you get all the money up
22 front, then he would get the money?

23 A. No. It was a deposit tendered on an escrow
24 account, on Mr. Lepizzera's escrow account who is
25 supposed to be protecting my interests.

1 Q. That's your understanding of what the agreement
2 was, that you never asked to look at the actual
3 document?

4 A. No. I was quite depressed even in June back then.
5 It's in my e-mails. Mike, I'm very depressed. Please
6 protect that Traini gets spread out all of these
7 months.

8 Q. So from June until after you pled guilty, you
9 never asked to take a look at that arrangement, that
10 written arrangement?

11 A. No. Because I was told in writing by
12 Mr. Lepizzera, Good news, we got Tony to agree to be
13 paid over nine months through the end of February 2013.

14 Q. And you really wanted Tony on the case, correct?

15 A. Well, I guess I did. I don't know.

16 Q. You don't know. You sat in a box, didn't you, in
17 a hearing in this courtroom when the Government tried
18 to disqualify Mr. Traini from representing you and
19 you --

20 A. I certainly wanted him. I don't know if that was
21 a good decision, but I did want him, yes.

22 Q. Once again you testified under oath to the Court,
23 right? And you told the Court that even if the Court
24 found out at some future point that there was a
25 conflict of interest that you were waiving it. Do you

1 remember that?

2 A. I remember telling the Court that I was waiving
3 conflict-free counsel on Traini with regards to the
4 Maggiacomo issue.

5 Q. And the Court explained to you that one of the
6 potential issues was the nascent nature of conflicts,
7 right, and that something might change, circumstances
8 might change and he might have to decide later that
9 Mr. Traini can no longer represent you. Do you
10 remember that?

11 A. I understood that.

12 Q. You understood it and you said, That's fine with
13 me. Mr. Lepizzera has got all my confidence and I'm an
14 attorney myself. Remember?

15 A. Yes. Yes. I remember that. And it speaks
16 further to my state of mind that if the judge had to
17 take away Mr. Traini for some conflict a month or two
18 down the road, why would I be so stupid to give him
19 \$450,000 non-refundable knowing full well there might
20 be a risk of recusal or removal.

21 Q. I guess maybe he beat you at your own game, to put
22 it in your words. Is that what you're suggesting?

23 A. No, I'm not suggesting that. I don't use
24 deception to beat people. I could use the rules that
25 are made. I don't agree with your characterization of

1 a scam. I was not told what I needed to know for this.

2 Q. That's what we're going to talk about now. You
3 don't use deception, right? So let's go look at the
4 statement of facts that you agreed to and swore to
5 under oath in this courtroom. This has previously been
6 identified as Government Exhibit Number 2. I'll put it
7 back on here.

8 Do you remember at the change of plea colloquy
9 when Mr. Vilker stood up and read all those facts in
10 the record?

11 A. Yes.

12 Q. After he did that, the judge asked you, "Do you
13 agree that those are the facts of the case"?

14 A. Yes. And I'm sure I said yes.

15 Q. You said, "Yes, they are."

16 So we're going to look at some of those
17 statement of facts. Let's turn to page four.

18 And you just told us that you don't use
19 deception. This paragraph at the bottom says, "In
20 addition, Caramadre took steps to conceal his use of
21 terminally ill individuals from the insurance companies
22 including opening annuities with small deposits that
23 would not attract scrutiny, delaying the filing of
24 death claims and opening annuities in the names of
25 Radhakrishnan when the funds actually belonged to

1 Caramadre." That was a very specific fact, correct?

2 A. Yes. I said I agree with the facts but I disagree
3 with this allegation.

4 Q. So this particular fact because earlier you told
5 us --

6 A. No. Any fact that speaks to a crime I am taking
7 issue with.

8 Q. Okay. So the sentence I just read, you request --

9 A. Sentence that you read, you are trying to make it
10 look like there's a concealment from the insurance
11 companies by putting in a small amount and then adding
12 more.

13 Q. And you're saying that there's not?

14 A. I'm saying the reason that a small amount was put
15 in was because I do read contracts and I don't trust
16 insurance companies, and I have a duty to my clients to
17 read them when there's a small amount in so I could
18 approve a larger deposit.

19 Q. So that sentence that I just read into the record
20 that you signed under oath, are you saying that
21 sentence is not true?

22 A. Yes. I'm saying that it was not done to conceal,
23 yes. I'm saying in the -- it was not done also not to
24 attract scrutiny because I know from 30 years in the
25 life insurance business that when you put in a deposit

1 of \$950,000 as a second deposit, it gets more attention
2 than the million dollars up front. Much more.

3 Q. I'd like to show you what I'll mark as Government
4 Exhibit Number 4. I'm going to show you what it is. I
5 can give a copy to counsel.

6 MR. McADAMS: If I could have one second, your
7 Honor.

8 If I can move this into evidence, your Honor,
9 Government's 4. This is an e-mail from Raymour to Alan
10 Ross from NATCO, one of your clients. Are you familiar
11 with Mr. Ross?

12 A. I'm familiar with Mr. Ross, yes.

13 Q. And it's an e-mail dated -- the initials at the
14 top of it are from Mr. Ross back to Raymour, but I want
15 to focus on the e-mail Mr. Radhakrishnan sent dated
16 September 15th, 2008. It writes, "Dear Mr. Ross: I
17 tried calling you on your cell phone this afternoon but
18 was unable to get in touch. As I mentioned when we
19 spoke this morning, I have received your
20 Nationwide-NATCO Home Fashions contract. Joe has
21 decided that we should put an additional \$750,000 into
22 this fund as opposed to initially maxing it out at the
23 \$2.8 million we had previously discussed. This is a
24 measure that we are taking to prevent any further
25 resistance that may result if we were to send the

1 company an initial check for \$2.55 million. Once the
2 check has been received and credited to your account,
3 Joe will contact you to strategize about future
4 deposits."

5 So do you still deny that you had a strategy to
6 conceal from the insurance companies --

7 A. No. No. There was a strategy. First of all,
8 Raymour wrote this, and I can't speak to why Raymour
9 wrote it that way. It could have been my instruction
10 was to Raymour, why don't we fund a million dollars
11 because we may use a different annuity. I don't know
12 why Raymour put that. You have to ask him.

13 Q. Okay. So then why don't we go to Government
14 Exhibit Number 5, which is an e-mail from you to
15 Mr. Ross. Maybe we can clear that confusion up.

16 A. Maybe we can.

17 Q. This says from Joseph Caramadre to Alan. That's
18 Alan Ross, correct?

19 A. I presume so.

20 Q. He cc's Raymour. It's Thursday, October 9th. And
21 it says, "Raymour did in fact discuss with me on Monday
22 night your question about a rush termination for the
23 annuities. I made a special effort to call you on your
24 cell phone on Tuesday morning about 10:00 a.m. Raymour
25 was under the impression I could call you before 10:30

1 a.m. on Tuesday. I am investigating which of these
2 annuities we can put in a death claim immediately.

3 As you know, these annuities are purchased using
4 the contract terms most advantageous to the contract
5 owner. When we entered into these annuities, there was
6 no notice of a potential need for emergency
7 withdrawal." And then there's a redacted portion and
8 it picks up and says, "However, I must tell you that
9 filing an immediate death claim on all three of the
10 annuities would create a disadvantage for both your
11 firm and my office. Specifically, if a claim is filed
12 right now, it will/may cause these annuity companies to
13 terminate our office's privileges to procure annuities
14 in the future. Furthermore, if NATCO is flagged by
15 these companies as an opportunistic purchaser, they may
16 in fact demand a relationship between NATCO and the
17 policy annuitant, thereby foreclosing NATCO from
18 purchasing advantageous annuities in the future. I
19 always try to protect all of our clients and in the
20 past I have asked other clients to wait until the
21 proper holding period to file a claim so as to protect
22 all other clients, including NATCO. If these claims
23 are filed and the insurance companies elect not to do
24 business with EPR in the future, then most all of our
25 valued clients would be in jeopardy for future

1 business."

2 And then you go on, I'm going to skip down to
3 the bottom paragraph with your advice. The second to
4 last paragraph says, "I would ask you to consider the
5 following." And then you give him a strategy. It
6 says, "File a claim on the \$2 million Genworth annuity
7 ASAP. Maintain the \$250,000 Western Reserve Life
8 contract (this is a new relationship with this carrier,
9 and this immediate claim would be injurious to my
10 office and all other clients who have recently
11 purchased this annuity). Delay the \$2.8 million
12 Nationwide claim for about a month or so." Then you
13 write in parentheses, "There were staggered deposits
14 into this annuity, which will create questions with an
15 immediate death claim."

16 You specifically underwent a strategy to conceal
17 from insurance companies by using staggered deposits.
18 Don't you admit that?

19 A. No. I don't admit that, because I have a duty to
20 my clients and my clients aggregately expect that I
21 will protect their interests. So if it is asking
22 another client to hold off a month or two for the
23 benefit of other clients because it may have been done
24 for them, then that's -- my job is to my client.
25 That's my oath.

1 Q. So it's okay to conceal and take a strategy to
2 conceal information from the insurance companies if
3 it's advantageous to your client. That's what you're
4 saying?

5 A. If it's legal and advantageous, sure.

6 Q. Well, is it okay to conceal?

7 A. Well, when you apply for a driver's license, they
8 don't ask you have you killed anyone. So you don't
9 have to answer it because it's not required. Okay? So
10 you're asking me is it okay to conceal.

11 Q. No. I'm asking you whether --

12 A. If it's legal, our clients don't have to make a
13 full confession on every application of everything
14 they've ever done if the insurance companies don't want
15 to know or don't ask about it.

16 Q. That's not what I'm asking you. I'm asking you
17 whether or not when you agreed to the statement of
18 facts which states that you took steps to conceal the
19 use of terminally ill individuals from the insurance
20 companies, including opening annuities with small
21 deposits that would not attract scrutiny, delaying the
22 filing of death claims, and we're going to get to the
23 next part, opening annuities in the name of
24 Radhakrishnan when the funds actually belonged to
25 Caramadre, are you denying that you did that?

1 A. I'm denying that there was any criminality about
2 that. And the word "conceal" is no different than me
3 opening up an annuity with 50,000 in and then I decide
4 to put more money in it. If you open up a bank account
5 with \$1,000 and then add \$20,000 later, did you conceal
6 from the bank that you might put 20,000 more? Is that
7 a crime? Is that an intended crime? No. Because it's
8 allowed by the contract.

9 Q. Okay. Now, you did take steps to conceal a number
10 of things from Midland National Insurance Company,
11 didn't you?

12 A. I'm not agreeing to that, no.

13 Q. So let's look at an annuity you opened with Lily
14 Ianiero as the annuitant. Do you remember Lily
15 Ianiero?

16 A. Yes. She became a dear friend of mine.

17 Q. After you begged for your law license back from
18 her, right?

19 A. Yes. After Maggiacomo screwed everything up.
20 Yes.

21 Q. It's always somebody else, right, Mr. Caramadre?

22 A. Not always. Just when it fits.

23 Q. When it fits your purposes?

24 A. No. When it fits the facts.

25 Q. So you opened up and you purchased an annuity at

1 Midland National Life Insurance Company, correct?

2 A. Yes. I opened up -- yes. I opened up with Mrs.
3 Ianiero, correct.

4 MR. McADAMS: I'm sorry. I didn't mark this as
5 an exhibit. I'm going to mark this as Government
6 Exhibit 6.

7 THE COURT: Is there any objection to Government
8 6?

9 MR. WATT: Not to this exhibit, Judge.

10 THE COURT: Okay. Six will be full.

11 (Government Exhibit 6 admitted in full.)

12 Q. And I know it's kind of fine print so I'm going to
13 zoom down.

14 And it indicates that the owner of the annuity
15 is Joseph Caramadre, yourself, correct?

16 A. Um-hum. (Affirmative.)

17 Q. The annuitant is Lily Ianiero?

18 A. Correct.

19 Q. She is an elderly terminally ill woman?

20 A. Yes.

21 Q. Was?

22 A. Yes.

23 Q. And this annuity is dated July 3rd, 2007, correct?

24 A. That's what it says, yes.

25 Q. That's when you applied for it?

1 A. I don't know when I signed it. I know that
2 Mr. Maggiacomo prepared these annuities, so whatever
3 date he put on it was it.

4 Q. You agree it says July 3rd?

5 A. It says July 3rd, yes.

6 Q. Now on July 3rd, 2007, you had never met Lily
7 Ianiero, correct?

8 A. I had not, no.

9 Q. You had no relationship with her whatsoever?

10 A. No. I started my relationship with her -- well,
11 I'm not sure if it was June or July but I'm going to
12 assume for this application Mr. Maggiacomo procured her
13 signature, so I had not met her.

14 Q. You're going to assume that Mr. Maggiacomo
15 procured her signature by giving her money, right?

16 A. Yes.

17 Q. And it says on this application that the
18 relationship is a client, right?

19 A. That's what is typed in, yes.

20 Q. But she was not your client?

21 A. Not at that time, no.

22 Q. You never represented her in your law practice,
23 correct?

24 A. Well, I did after I got to know her.

25 Q. After you begged her for your law license back.

1 A. I needed to beg her for my law license because
2 Mr. Maggiacomo paid her daughter who forged her
3 mother's signature and we had to cancel the annuity as
4 soon as it came to my attention. So I did go back --

5 Q. You didn't cancel. It got cancelled on you.
6 Isn't that what happened?

7 A. I would have cancelled it anyway, as I have other
8 accounts.

9 Q. Even though you didn't cancel the other annuities
10 that you opened in Ms. Ianiero's name with different
11 companies like Jefferson National?

12 A. No. I believe that was done afterwards.

13 Q. Okay. So after that annuity was opened in July
14 2007, you put \$2.5 million in that, right?

15 A. Yes.

16 Q. How much money did you pay Mrs. Ianiero?

17 A. After I went to see her?

18 Q. Yes.

19 A. I paid her \$9,500.

20 Q. How much did you think Mr. Maggiacomo paid her?

21 A. I thought he paid her \$4,000.

22 Q. This is a part of Government 6. I'm going to pull
23 up a different page here. This is a correspondence
24 from Midland to you dated August 30th, 2007. And it
25 states, "On July 5, 2007, your agent, Edward

1 Maggiacomo, submitted an annuity application to Midland
2 National. The annuity application listed you as the
3 owner and Lily Ianiero as the annuitant. Upon
4 verification of addresses, we noted a discrepancy in
5 the annuitant's address. We contacted Ms. Ianiero to
6 confirm her address. Ms. Ianiero stated that she was
7 unaware that an annuity application was submitted
8 listing her as the annuitant. In addition, she stated
9 she did not know you or Mr. Maggiacomo. Ms. Ianiero
10 requested the application not be issued and as you know
11 the application was declined." And then it goes on.

12 Do you remember getting that letter?

13 A. Yes. I remember it because Midland National
14 closed down the annuity and sent me back \$2.5 million.

15 Q. They sent your money back and said we don't want
16 your business?

17 A. They said we're not going to take this
18 application.

19 Q. And shortly thereafter, they told Maggiacomo he
20 can't sell any more of their products, correct?

21 A. They probably did.

22 Q. October 19th, 2007, which is, again, part of that
23 same Exhibit 6, is a letter from Midland.

24 A. Eddie Maggiacomo is his own agent. He's not my
25 employee. So if they terminated his relationship, they

1 did.

2 Q. So if he happened to not tell the truth to an
3 annuitant, then it's his fault; and if Raymour happened
4 to not tell the truth to an annuitant, then it's his
5 fault but you have nothing to do with it, right?

6 A. No. No. I must take responsibility for not
7 managing Raymour correctly, but I will not take
8 responsibility for any fraudulent statements or
9 anything that was knowingly wrong.

10 Q. Okay. So you knew or you certainly believed that
11 Mr. Maggiacomo had paid Ms. Ianiero \$4,000?

12 A. He came and asked me for 4,000, and I gave it to
13 him.

14 Q. Right. And then you later gave her what, \$9500?

15 A. On one day, and a little more on other days.

16 Q. Okay. So after that letter came, you were pretty
17 unhappy with the situation with Mr. Maggiacomo; is that
18 right?

19 A. Yes.

20 Q. So you sent him an e-mail, correct?

21 A. I'm sure I did.

22 MR. WATT: Judge, I object to the continuation
23 of this line of questions. It seems way outside of the
24 direct which the Court had limited at least in a court
25 order as well we're into 2007, 2008, materials of which

1 neither me or my brother have seen previously in
2 preparation for this limited purpose. I defer to the
3 Court's direction on this, but it seems to me it's way
4 outside the scope.

5 THE COURT: I've been kind of wondering what the
6 relevance of all this is.

7 MR. McADAMS: Mr. Caramadre denied that he
8 conducted the conduct that underlies the statement of
9 facts. He's basically saying he didn't do it. And
10 there's numerous evidence that shows that in fact he
11 did do it. So I'm asking him whether or not he did it
12 or not in connection with his statement of facts.

13 THE COURT: Well, how far is this going to go
14 then?

15 MR. McADAMS: It literally, your Honor --

16 THE COURT: You're really talking about the
17 whole case, aren't you?

18 MR. McADAMS: If it was the whole case, it would
19 take a lot longer. I could do it for literally months,
20 the number of lies that Mr. Caramadre engaged in.

21 What I'm trying to do is go through the
22 statement of facts and show a few examples, but the
23 statement of facts is very detailed. I can move it
24 along a little bit, but I think it's going to take some
25 time. He is claiming that he is actually innocent,

1 that he did not commit these offenses. He swore under
2 oath that he did. He swore to a very specific
3 statement of facts, and he's claiming that it's all a
4 lie. And on cross-examination, I think I have a right
5 to ask him about the specifics that he's denying and to
6 show him documents that contradict those specific
7 claims.

8 THE COURT: The statement of facts doesn't
9 reference any particular annuitants, does it, like
10 Ms. Ianiero or anyone else? It's a more general
11 statement, isn't it? You have the exhibits. I don't
12 have them in front of me. I can pull it up on --

13 MR. McADAMS: The statement of facts does
14 identify some specific annuitants. Mrs. Ianiero is not
15 one of the particular ones.

16 The point I'm getting at here is that
17 Mr. Caramadre and Mr. Maggiacomo were banned by Midland
18 Insurance Company because of this incident with
19 Ms. Ianiero and that because Mr. Caramadre was so fond
20 of the loopholes that he believed he found in their
21 contract, he then reverted to using Mr. Radhakrishnan
22 as a nominee to purchase annuities through Midland in
23 which there were lies about the source of the funds, in
24 which Mr. Radhakrishnan claimed to be the owner of the
25 annuity and which they essentially attempted to

1 circumvent this whole process which is an effort that
2 Mr. Caramadre engaged in to conceal from the insurance
3 companies as in that one sentence, page four of the
4 statement of facts, of how he took steps to conceal his
5 use of terminally ill people and the scheme in general.

6 So I mean, there are literally dozens and dozens
7 of specific examples that could be used to demonstrate
8 the conduct of Mr. Caramadre.

9 THE COURT: I'm worried about how far this is
10 going to go into the trial evidence.

11 MR. McADAMS: I mean, I would like to go as far
12 as I need to go until I can establish that it's
13 actually true that he's guilty because he's claiming
14 that he's not. Frankly, I think I've already done that
15 for the most part, so on some level, you know, if we're
16 ready to move to argument, I'm certainly ready to argue
17 it. I think his testimony on direct is completely
18 incredible; and on cross, also incredible.

19 THE COURT: I don't we want to get to argument
20 yet, and I think there's a lot more to go before we get
21 to argument. I just want to focus on this little
22 objection here.

23 THE WITNESS: Your Honor, may I address the
24 Court?

25 THE COURT: No.

1 THE WITNESS: Okay.

2 MR. McADAMS: The bulk of the remainder of the
3 cross-examination, your Honor, is going through
4 specific statements in the statement of facts and
5 asking Mr. Caramadre if he denies them and then showing
6 him some specific instances where those denials are not
7 believable. So I appreciate what you're saying. It
8 certainly could take a very long time to do that.

9 THE COURT: I'm going to give you some leeway
10 because of the nature of the allegations. I think
11 you've established what the relevance of it is, but I
12 would just encourage you to consider the fact that you
13 don't need to try the entire case in the context of
14 this proceeding.

15 MR. McADAMS: I appreciate that, your Honor.
16 I'll do my best to expedite it.

17 Q. So Mr. Caramadre, you observed that back and forth
18 between myself and the Court, correct?

19 A. Correct.

20 Q. You heard my description of your use of
21 Mr. Radhakrishnan as a nominee?

22 A. I heard it and disagree with it, yes.

23 Q. So you disagree with the fact that you gave
24 Raymour money and had him buy an annuity at Midland
25 using a terminally ill person as the annuitant and that

1 he did so and that when the person died and he made a
2 profit from it that he returned the money back to you?

3 A. I'm not disagreeing with the transaction. I
4 believe that you are being incomplete in your
5 questioning. For instance, Mr. Radhakrishnan also
6 bought two other Western Reserve annuities with a
7 million dollars each. So you're trying to establish
8 one annuity that is not in the statement of facts with
9 one annuitant, yet I'm -- I had full intent and action
10 to not conceal whose money it was because I gave
11 Mr. Radhakrishnan a check using the banking system and
12 told him to invest these monies. He chose Midland and
13 he chose Western Reserve on the other two.

14 Q. So this just -- your use of giving
15 Mr. Radhakrishnan a million dollars to go and buy an
16 annuity and to invest, you just said go ahead, go
17 invest the money, have fun, kid.

18 A. I wanted him to learn about how he could use these
19 two or three type of annuities.

20 Q. And you wanted him to give you the money back when
21 they cashed in, right?

22 A. Well, of course. It's my money, yes.

23 Q. Right. It was your money?

24 A. Yes.

25 Q. So you --

1 A. What's so funny?

2 Q. What's so funny is you wanted an annuity from
3 Midland. You got banned from Midland because they
4 caught you with your hand in the cookie jar because
5 they called Lily Ianiero, she said she had no idea who
6 you were. So you turned around, you gave a million
7 dollars to your buddy, Raymour, and had him open the
8 same annuity and then he gave you the money back.

9 MR. WATT: Objection, Judge.

10 THE COURT: What's the objection?

11 MR. WATT: The objection is he's testifying,
12 number one.

13 Q. Isn't that true, Mr. Caramadre?

14 A. No, that is not true.

15 THE COURT: First of all, the objection is
16 overruled.

17 You say that statement is untrue.

18 A. I say that because Midland National themselves has
19 given us e-mails between the executives of Midland that
20 they don't care who the annuitant is or what
21 relationship it's in, and we have these current dated
22 in 2007. And it is because Mr. Radhakrishnan put his
23 wrong net worth and wrong address that I knew nothing
24 about that changes this. It's because of that false
25 information on there that I knew nothing about that the

1 Government has a bone to pick. But no, he could have
2 bought any of the three annuities. It didn't matter to
3 me.

4 Q. It was your money?

5 A. It was my money, yes.

6 Q. You gave him three choices what annuities to buy?

7 A. I gave him \$2.8 million.

8 Q. This is a 27-year-old kid. How old was he at the
9 time?

10 A. Twenty-three.

11 Q. Twenty-three, right?

12 A. Yes. Because he was going to invest it and he
13 could manage the sub-account investment because I was
14 doing a lot of traveling, and he was a very intelligent
15 person who I trusted to manage some of my assets.

16 Q. What's \$2.8 million between friends, right?

17 A. Well, apparently, I don't have a problem with
18 that, and it's my money.

19 Q. The real motivation, though, was you wanted that
20 Midland annuity, wasn't it?

21 A. Midland was just one of many that we could take.

22 Q. It was one of the ones you wanted?

23 A. Well, there was a list of forty.

24 Q. And it was one that you couldn't get with your own
25 name because they caught you with Lily Ianiero and said

1 get out of town.

2 A. I'm not sure whether I could have gotten it or
3 not. What I know is Maggiacomo can't get it.

4 Q. You know they sent your \$2.5 million check right
5 back to you, right?

6 A. So I may have been able to buy it myself.

7 Q. You love to say how the insurance companies love
8 to take our money.

9 THE COURT: All right. Mr. McAdams. I think
10 you made the point.

11 MR. McADAMS: I'm just going to move into
12 evidence, your Honor.

13 THE COURT: I think this ought to be maybe a
14 good time to take a ten-minute break. So why don't we
15 do that. I think there are some other witnesses who
16 have arrived; is that right?

17 MR. OLEN: That is correct, your Honor.

18 THE COURT: Why don't counsel come up for a
19 minute.

20 (Side bar conference off the record.)

21 (Recess.)

22 THE COURT: Counsel, based on our conversation
23 at side bar a few minutes ago, I think we've agreed
24 we'll suspend the cross-examination of Mr. Caramadre
25 and take some of the witnesses who are waiting outside,

1 one or more out of order, right?

2 MR. OLEN: That's correct, your Honor.

3 THE COURT: Call your witness.

4 MR. WATT: Dr. Greer, please.

5 JAMES GREER, first having been duly sworn,
6 testified as follows:

7 THE CLERK: Please state your name and spell
8 your last name for the record.

9 THE WITNESS: Dr. James Greer, G-R-E-E-R.

10 THE COURT: Good afternoon, Dr. Greer.

11 THE WITNESS: Good afternoon.

12 THE COURT: Go ahead, Mr. Watt.

13 MR. WATT: Thank you, your Honor.

14 DIRECT EXAMINATION BY MR. WATT

15 Q. Doctor, what is your occupation?

16 A. I'm a psychiatrist.

17 Q. And trained where?

18 A. At Tulane University.

19 Q. Any certifications?

20 A. I'm certified in adult psychiatry since 1985.

21 Q. Where have you practiced?

22 A. I first practiced on the faculty of Tulane
23 University, then in 1985 moved back to Rhode Island. I
24 have since that time been employed at the Providence
25 Center. I also for 21 years have worked at the Rhode

1 Island Department of Corrections as well as doing
2 consulting work in a variety of settings and teaching
3 at Brown University.

4 Q. Have you ever had the occasion to testify in court
5 within the confines of your specialty?

6 A. Yes, I have.

7 Q. How many times, approximately?

8 A. Total I would say perhaps 12 times.

9 Q. Over those 12 times, have you been qualified by
10 the Court as an expert?

11 A. Yes.

12 Q. Can you name the court or court systems?

13 A. I also testified many times in Family Court,
14 probably upward of 30 or 40 times, as well as in
15 Federal Court, in District Court and Family Court.

16 Q. And been qualified and accepted as an expert?

17 A. Yes.

18 Q. In psychiatry?

19 A. Yes.

20 Q. Have you had occasion in terms of your practice to
21 make the acquaintance of Joseph Caramadre?

22 A. Yes, I have.

23 Q. How did that come to pass?

24 A. I was requested to evaluate him by his attorney,
25 Mr. Olen. So I met with him, reviewed his records,

1 which were provided me and then prepared a report and
2 submitted it.

3 Q. Do you have a recollection of what records you
4 reviewed?

5 A. Yes. I reviewed letters and communications I
6 believe from Dr. Zlotnick, his therapist; and also if I
7 can refer to -- if I can refer to my notes.

8 Q. Do you have a memory, or do you have to refer?

9 A. Yeah. Dr. Linda Carpenter and Dr. Paul Malloy as
10 well and Dr. Sarah Xavier.

11 Q. And then did you see Mr. Caramadre?

12 A. Yes, I did.

13 Q. How many occasions?

14 A. Beg your pardon?

15 Q. How many occasions did you see him?

16 A. I saw him on one occasion.

17 Q. Where was that?

18 A. That was my office on Eddy Street and met with him
19 for a period of a little under two hours.

20 Q. At the conclusion of that session, did you have
21 occasion to see him again?

22 A. Not until today.

23 Q. Did you ask for any materials related to the
24 history he gave you at that point in time?

25 A. No. All the materials I required were provided.

1 Q. You have not had the benefit of being here this
2 morning to hear his testimony in somewhat greater
3 detail?

4 A. That's correct.

5 Q. Would that be of assistance to you.

6 A. Certainly in terms of any further information that
7 might help.

8 Q. Okay. At the conclusion of all of the research
9 that you did, the interview that you had with him and
10 based upon your training, at the conclusion of that,
11 did you prepare a five-page report?

12 A. Yes, I did.

13 Q. Did you send that to Mr. Olen?

14 A. Yes.

15 Q. Okay. And did you form an opinion at the
16 conclusion of that report as to whether or not
17 Mr. Caramadre was of sufficient mental stability to
18 have exercised executive function in terms of giving
19 the plea to Judge Smith on November 19th?

20 A. Yes, I did.

21 Q. What was that conclusion on your part?

22 A. Based on all the information available to me and
23 my interview with him, that at that time he was not
24 capable of making an informed decision.

25 Q. What was it that caused him not to be able to

1 inform an intelligent decision on that date at that
2 time?

3 A. In addition to his chronic refractory depressive
4 syndrome of over 25 years duration, he also was
5 experiencing acute stress, not only because of the
6 legal case that he was involved in, this case, but also
7 because of his own wife's acute psychiatric illness.
8 And he also reported to me that the advice of his
9 attorneys at the time, that in order to not abandon his
10 wife that he would -- it was in his best interest to
11 make such a plea. He also attempted to reach out to
12 his long-term psychotherapist for support, but she was
13 out of the country and so he was unable to access his
14 normal support system.

15 Q. And in your conclusion, at least on page four of
16 your report, you concluded that he was not capable of
17 making an informed and considered decision of the
18 magnitude of tending a guilty plea to this Court,
19 correct?

20 A. Yes.

21 Q. I ask you the magic language. Do you hold that
22 opinion to a reasonable degree of psychiatric
23 certainty?

24 A. I do.

25 MR. WATT: Judge, I believe it's been attached

1 already to Mr. Olen's memorandum, the first submitted
2 memorandum. I'm going to seek to introduce it as a
3 full exhibit, the doctor qualified as an expert to
4 render that opinion and offer the doctor for
5 cross-examination.

6 THE COURT: All right. Thank you. Is there any
7 objection to admitting the report that was submitted by
8 Dr. Greer as an exhibit in this case?

9 MR. McADAMS: No, your Honor.

10 THE COURT: We'll make this Defendant's Exhibit
11 A. You may cross-examine him.

12 (Defendant's Exhibit A admitted in full.)

13 **CROSS-EXAMINATION BY MR. McADAMS**

14 Q. Good afternoon, Dr. Greer.

15 A. Good afternoon.

16 Q. My name is John McAdams. I'm an Assistant United
17 States Attorney. I want to ask you a few questions.

18 First of all, you were retained by the
19 Defendant's attorney for the purposes of this
20 litigation; is that correct?

21 A. That's correct.

22 Q. And Mr. Caramadre had never been a patient of
23 yours before?

24 A. That's correct.

25 Q. You did not see him on November 19, 2012?

1 A. I had never met him before the day of my
2 evaluation.

3 Q. And you've never seen him since other than today?

4 A. That's correct.

5 Q. How much money are you being paid for your
6 evaluation?

7 A. I'm going to bill for my time.

8 Q. Approximately how much money is that?

9 A. \$250 per hour.

10 Q. How many hours did you spend evaluating
11 Mr. Caramadre?

12 A. Approximately between review of records, report
13 preparation and interviewing him, approximately six
14 hours.

15 Q. So you testified about the record you reviewed?

16 A. Yes.

17 Q. Those were provided to you by the Defendant's
18 attorney?

19 A. That's correct.

20 Q. And your opinion is based in part on your review
21 of Mr. Caramadre's medical history?

22 A. Definitely.

23 Q. And you noted in your affidavit that at no point
24 in his history nor in your exam was there any evidence
25 of psychosis or mania?

1 A. Yes, that's correct.

2 Q. You also note in your affidavit that your
3 evaluation was based in part on the statement
4 Mr. Caramadre made to you; is that correct?

5 A. Yes.

6 Q. For purposes of your evaluation, you take what he
7 tells you as true; is that right?

8 A. I have to weigh it. I would not say that I would
9 automatically take anything anyone tells me in an
10 evaluation as true. I have to exercise judgment in
11 terms of assessing as best I can the truthfulness of
12 what they're saying.

13 Q. So for purposes of your opinion here with respect
14 to Mr. Caramadre, did you take his representations to
15 you to be true?

16 A. Yes, I did.

17 Q. Okay. And if some of those statements it turns
18 out were not true, could that affect your opinion?

19 A. It could.

20 Q. So for example, in your affidavit it says that
21 Mr. Caramadre claimed to you that his attorneys
22 pressured him to plead guilty, right?

23 A. Yes. That's right.

24 Q. Now, if it turned out that that were not true,
25 could that affect your opinion?

1 A. It certainly might.

2 Q. Now -- you don't know whether it's true or not?

3 A. I only know the history that I received from
4 Mr. Caramadre.

5 Q. Right. And so if his attorneys actually had not
6 pressured him to plead guilty, then that might very
7 well affect your opinion?

8 A. It could, yes.

9 Q. I notice also in your affidavit that Mr. Caramadre
10 told you that he begrudgingly went before the judge and
11 accepted the deal. That's a quote you put in your
12 report?

13 A. That's right.

14 Q. That's a quote you put in from what he told you?

15 A. Yes.

16 Q. Did he provide you with a copy of any of the
17 documents that he executed in connection with his plea
18 agreement?

19 A. He did not.

20 Q. You didn't see a copy of the plea agreement?

21 A. No.

22 Q. Or the statement of facts that he signed?

23 A. No, I did not.

24 Q. He didn't give you a copy of the questions and
25 answers that the judge asked him at the time that he

1 pled -- entered his guilty plea?

2 A. No, he didn't provide me with that.

3 MR. McADAMS: Thank you. I have no further
4 questions.

5 THE COURT: Any redirect?

6 MR. WATT: No redirect, Judge, please.

7 THE COURT: I have a couple of questions,
8 Dr. Greer.

9 First of all, you indicated Mr. Caramadre told
10 you his attorneys pressured him to accept the plea. Do
11 you remember specifically what he said about that?

12 THE WITNESS: I do, your Honor. I recall that
13 he told me in particular that they -- his attorneys had
14 asked him to think about who would care for his wife if
15 he were to go to trial and not be successful and then
16 not be available to support her for a very long time.
17 That was one of the specific concerns that he had. He
18 told me he experienced a great deal of guilt about
19 that.

20 THE COURT: Anything else you remember about how
21 he described the pressure?

22 THE WITNESS: Just that it was in his best
23 interest to do so.

24 THE COURT: Now, this conclusion you have that
25 he was not capable of making an informed decision to

1 plead at the time, I wonder how much information were
2 you given with respect to the back and forth that
3 Mr. Caramadre had with his attorneys about whether to
4 plead guilty or not plead guilty. Did you get a lot of
5 history of that discussion or just the --

6 THE WITNESS: In the discussion with
7 Mr. Caramadre, I did, yes. And the main thrust of it
8 was just that. He told me that they had encouraged him
9 to accept the plea so that he would be able to not be
10 unavailable for potentially a very lengthy period of
11 time for his wife, who was at the time acutely --
12 experiencing acute depressive symptoms and was not
13 doing well at all.

14 THE COURT: What I'm wondering is, did he tell
15 you about discussions he had with his attorneys earlier
16 in time where he essentially prohibited them from
17 having negotiations with the Government about a plea?

18 THE WITNESS: Yes, he told me that up until the
19 time when this occurred, when his wife became acutely
20 ill, that he had been persistent in his refusal to
21 consider making a plea, but that at that particular
22 time, when the actual trial began, which I believe was
23 just a few days, and with the -- he told me that he
24 somewhat suddenly made the decision to reverse what had
25 been his longstanding and I guess persistent refusal to

1 consider such a thing.

2 THE COURT: So besides the situation with his
3 wife, did he describe to you anything else about --
4 anything else that was causing him to come to that
5 conclusion, anything about the trial?

6 THE WITNESS: No. He didn't say that there was
7 anything happening in the trial that made him feel at
8 this point he should change his mind about it. It was
9 specifically the concern about his wife, that his wife
10 was acutely ill at the time and that he was not going
11 to be able to provide support to her, emotional or
12 otherwise, if he were going to be -- if he were
13 convicted and then serve a long sentence.

14 THE COURT: Okay. Now, earlier today, you
15 weren't here, you couldn't hear the testimony of
16 Mr. Caramadre, but he said in his examination, I'm
17 going to paraphrase this, that in discussions that he
18 had with his attorneys or his attorneys had with the
19 Government and his responses to his attorneys, his
20 attorneys told him that the Government would be happy
21 with a plea agreement that had a sentencing range of
22 two to five years and that he told his attorneys that
23 that was unacceptable because it would send the wrong
24 signal to me, the judge, and that he wanted to preserve
25 his ability to ask for no time or a non-incarcerative

1 sentence and that then resulted in the discussions
2 which resulted in the plea on Monday.

3 So would knowing about that back and forth that
4 occurred between Mr. Caramadre and his attorneys in
5 terms of, you know, what instructions he was giving
6 them or guidance, if you will, would that have any
7 bearing at all on your analysis of his ability to make
8 a knowing and voluntary decision here about whether to
9 plead guilty?

10 THE WITNESS: When I spoke with him, he told me
11 that he would not accept a plea even if it did not
12 involve jail time because his belief that he was not
13 guilty but also because he didn't want to not just send
14 a message to the Court but also to his family and that
15 he told me he was adamant that whether or not he was
16 offered an opportunity to even not do time that he
17 would not accept such a plea.

18 THE COURT: Okay. But that particular dialogue
19 that I just mentioned, that wasn't something that came
20 up in the context of your discussions with him about
21 what occurred at the time; is that right?

22 THE WITNESS: Yes, in terms of at the time, he
23 did not say that -- he didn't provide any information
24 about discussions about length of sentence in terms of
25 whether or not there was the potential to not serve any

1 jail time or anything like that, but simply that he at
2 the time felt guilty about leaving his wife alone and
3 unsupported and thus reached that decision.

4 THE COURT: Well, I guess the question that I'm
5 grappling with in this proceeding is the difference
6 between someone who makes a decision that they later
7 come to regret, someone who has buyer's remorse, so to
8 speak, and someone who makes a decision that they are
9 not competent, that they make it in a state of mental
10 incompetence or some type of cognitive deficiency that
11 prohibits them from thinking clearly enough to make
12 that decision, an important decision, knowing and
13 voluntary and intelligent. And there's a big
14 difference between a decision you make knowingly and
15 you later come to regret and a decision you don't
16 comprehend or don't understand or you make in distress
17 that can't be considered knowing or voluntary.

18 Is that a distinction that you considered in the
19 context of examining Mr. Caramadre?

20 THE WITNESS: Yes, it is. I considered the
21 difference between his having made a choice which he
22 later regretted as opposed to being in an acute state
23 of distress. And certainly while obviously all of this
24 was reported to me in retrospect, there was evidence in
25 reports from others that in fact there were multiple,

1 very severe and extraordinary stressors going on,
2 obviously the stress of the case but also the stress of
3 his wife's acute illness and then the lack of
4 availability of the normal support system that he had,
5 his psychotherapist who was not available to him.

6 THE COURT: Okay. Very good. I don't have
7 anything further.

8 Do either of you have any follow-up on my
9 questions?

10 MR. WATT: No follow-up on the Court's
11 questions, Judge.

12 MR. McADAMS: Judge, one question, your Honor.

13 THE COURT: Go ahead.

14 **EXAMINATION BY MR. McADAMS**

15 Q. Dr. Greer, you just mentioned that Mr. Caramadre
16 said that his treating psychotherapist was out of town?

17 A. Yes.

18 Q. And he wasn't able to reach her?

19 A. Yes.

20 Q. Did he tell you what other resources in his
21 support network might have been available to him that
22 he relied on?

23 A. No. We didn't talk about that.

24 Q. Did he talk about meeting with his priest over the
25 weekend?

1 A. I know he told me that he had met with his priest
2 to discuss it, but I don't specifically recall talking
3 about meeting with his priest over the weekend.

4 Q. Did he talk about meeting with his family members
5 at all?

6 A. I don't recall. I remember him saying that he had
7 met with his wife and was very distressed about her
8 situation.

9 Q. Would it have affected your opinion if perhaps he
10 had available to him and in fact met with his priest
11 who served as a counselor and advisor to him?

12 A. There's no question, I know his religious
13 background and that he describes himself as a very
14 devout man, and certainly I think an opportunity to
15 speak with his priest would have been a support. But I
16 think his primary support, again, not to prioritize a
17 psychotherapist over the clergy, would be the person
18 that he had been working with very specifically around
19 these issues in a professional setting.

20 Q. Did he tell you whether he made any attempts to
21 find her back-up person or contact 911 or any other
22 steps like that?

23 A. No. Again, if there were a back-up person
24 available or for that matter a 911 person, neither of
25 whom would have had the history with him of providing

1 support and helping him with decision making, I
2 wouldn't think that would be a very useful
3 intervention.

4 MR. McADAMS: No more questions.

5 THE COURT: Thank you.

6 Okay. Dr. Greer, thank you very much.

7 Is there another witness that you'd like to take
8 out of order?

9 MR. WATT: Judge, Dr. Zlotnick is here.

10 CARON ZLOTNICK, first having been duly sworn,
11 testified as follows:

12 THE CLERK: Please state your name and spell
13 your last name for the record.

14 THE WITNESS: Caron Zlotnick, Z-L-O-T-N-I-C-K.

15 THE COURT: Good afternoon, Dr. Zlotnick.

16 You may inquire, Mr. Watt.

17 MR. WATT: Thank you, Judge. Thank you very
18 much.

19 DIRECT EXAMINATION BY MR. WATT

20 Q. Dr. Zlotnick, where were you trained?

21 A. I was trained at the University of Witwatersrand
22 in Johannesburg. I received my master's there. Then
23 the University of Rhode Island I received my Ph.D., and
24 then I did my internship and post-doctoral training at
25 Brown University.

1 Q. And when was that, that last training at Brown
2 University?

3 A. It was 1996.

4 Q. Okay. And since that time, have you practiced any
5 particular profession?

6 A. Well, I have practiced as a clinical psychologist
7 and as an academic at Brown University.

8 Q. And do you have any licenses?

9 A. I have a license.

10 Q. What license?

11 A. A license to practice clinical psychology.

12 Q. Okay. And have you ever testified in court
13 before?

14 A. No, I have never.

15 Q. So you've never been qualified as an expert
16 before; is that correct?

17 A. No, I have never.

18 Q. Okay. Let me ask you this, Doctor. Did you have
19 an occasion to come into contact with Joseph Caramadre?

20 A. Yes.

21 Q. And what were the circumstances surrounding that
22 first contact?

23 A. He was referred to me by Dr. Carpenter, and I saw
24 him and have been seeing him as a patient for
25 psychotherapy.

1 Q. And where was that?

2 A. At Butler Hospital.

3 Q. And when did you start, if you started treatment
4 of Mr. Caramadre?

5 A. I believe it was towards the end of '09.

6 Q. And at the end of '09 to the present time, has he
7 been a continual patient of yours?

8 A. He has been a patient of mine and he has seen me
9 approximately once a week for psychotherapy.

10 Q. And where have those sessions taken place?

11 A. They have taken place in a room at Butler
12 Hospital.

13 Q. Have you prescribed any particular medications for
14 him during that time?

15 A. No. I'm a clinical psychologist.

16 Q. Have you prescribed any particular types of
17 interventions for him that are not medicine?

18 A. Psychotherapy.

19 Q. Are you aware of any other treatment providers
20 that have provided him with any other kinds of
21 treatment during the course of your psychotherapy?

22 A. There was Dr. Linda Carpenter who gave him cranial
23 magnetic stimulation. He had been seeing Dr. Tim
24 Whalen, and he continued to see him and then he went --
25 Dr. Whalen closed his practice. He saw Sarah

1 X-A-V-I-E-R.

2 Q. And were you in possession of all of those
3 treatment providers' records as it relates to
4 Mr. Caramadre?

5 A. I spoke to -- I was obviously coordinating with
6 Dr. Carpenter, and I believe I spoke to Dr. Whalen and
7 I have spoken to Sarah Xavier, or however you pronounce
8 the name.

9 Q. Are you aware in terms of your treatment of
10 Mr. Caramadre that he was pending a trial situation in
11 this court?

12 A. Yes.

13 Q. And did you treat him right up until the trial?

14 A. Well, up until I left for South Africa.

15 Q. And when did you leave for South Africa?

16 A. It was, I believe, the 17th of November, that week
17 just before Thanksgiving.

18 Q. And you didn't see him that week on Thursday?

19 A. I don't believe I did. No. Not on the day I
20 left.

21 Q. Was there any alternative plan for that missed
22 meeting set up by you prior to the time that you
23 departed for South Africa?

24 A. No. I knew that he was being seen by others.

25 Q. You didn't see him on Thanksgiving?

1 A. No. No. I was away.

2 Q. So it was a couple of weeks after you left that
3 you came back and he saw you again; is that correct?

4 A. I believe he saw me on my return.

5 Q. And has seen you consistently since that time?

6 A. Right.

7 Q. And you have submitted --

8 MR. WATT: And Judge, it's in the submission of
9 Mr. Olen in the first memorandum and I'd ask that the
10 letter of February 21st, 2013, be admitted as an
11 exhibit, Exhibit B for the Defendants.

12 THE COURT: Any objection?

13 MR. McADAMS: No objection, your Honor.

14 THE COURT: The statement or affidavit will be
15 admitted in full as Exhibit B. Go ahead.

16 MR. WATT: Thank you, Judge.

17 (Defendant's Exhibit B admitted in full.)

18 Q. In that letter, Doctor, provided to my brother,
19 Mr. Olen, you indicated that you heard that
20 Mr. Caramadre had pled guilty when you returned; is
21 that correct?

22 A. Well, I saw it on the Internet when I was in South
23 Africa.

24 Q. What was your immediate reaction to finding out
25 that he pled guilty?

1 A. Shocked.

2 Q. Why were you shocked?

3 A. Because up until then he had been steadfast in
4 saying that he would never plead guilty.

5 Q. Ever indicate anything to the contrary from 2009
6 right through November of 2012?

7 A. Never.

8 MR. WATT: Judge, I have no further questions.

9 THE COURT: Mr. McAdams.

10 **CROSS-EXAMINATION BY MR. McADAMS**

11 Q. Good afternoon, Dr. Zlotnick. My name is John
12 McAdams. I'm an Assistant United States Attorney.

13 So when did you begin treating Mr. Caramadre?

14 A. I believe it was towards the end of '09.

15 Q. And how often would you treat him?

16 A. Approximately once every week. Once a week.

17 Q. So weekly throughout the entire period?

18 A. Yes. Roughly on and off.

19 Q. And in that entire period of time when you had
20 been treating him, he had never told you that he had
21 committed any of the crimes that he had been accused
22 of?

23 A. Never.

24 Q. So when he pled guilty, you were shocked by that
25 fact?

1 A. Yes.

2 Q. Your surprise -- you don't actually know whether
3 he's guilty or not, correct?

4 A. No. I'm a psychologist.

5 Q. You have no idea whether he actually did what he
6 was accused of doing?

7 A. No.

8 Q. And you were in South Africa on November 19th,
9 which was the day that he pled guilty?

10 A. Yes.

11 Q. Now, you left for your trip on November 17th; is
12 that right?

13 A. Yes.

14 Q. Are you aware that the trial started on November
15 13th?

16 A. Yes.

17 Q. Did Mr. Caramadre attempt to reach out to you on
18 November 13th?

19 A. No.

20 Q. 14th?

21 A. No. I don't recall.

22 Q. What about November 15th?

23 A. No. I don't think so.

24 Q. And do you know if he reached out to you on
25 November 16th?

1 A. No.

2 Q. Do you have any types of procedures when you're
3 unavailable if a patient has an emergency or really
4 needs to see somebody, do you have any type of backup
5 or colleagues?

6 A. Well, he was being seen by a psychiatrist who was
7 the backup.

8 Q. That would be Dr. Xavier?

9 A. Xavier, yep.

10 Q. And do you know whether he attempted to contact
11 Dr. Xavier?

12 A. No, I do not know.

13 Q. To your knowledge, he did not attempt to contact
14 her?

15 A. I do not know. I can't recall.

16 Q. I'm sorry?

17 A. I say I can't recall if he did or he didn't.

18 Q. So you just don't know one way or the other?

19 A. I think not, but I can't remember.

20 Q. Now, your affidavit that was admitted as Defense
21 Exhibit B essentially doesn't express any opinion as to
22 his mental state on November 19th; is that correct?

23 A. Well, other than the fact that he's been suffering
24 from chronic depression.

25 Q. Which was something that he had been suffering

1 from for a long period of time, correct?

2 A. Yes.

3 Q. And you have no reason or knowledge that it
4 actually changed during the period when you were out of
5 the country and didn't see him?

6 A. Well, I had no knowledge at the time.

7 Q. So any knowledge that you have is based on what he
8 told you later?

9 A. Yes.

10 Q. Okay. Now, you submitted a second affidavit; is
11 that correct?

12 A. Yes.

13 Q. Okay. And what were the circumstances surrounding
14 the creation of that second affidavit?

15 A. To be more specific.

16 Q. Why did you write another affidavit?

17 A. Pardon?

18 Q. Why did you write another affidavit?

19 A. Because it seemed I needed to be more specific
20 around how his depression might be related to his state
21 of mind that led him to plead guilty.

22 Q. Who told you that?

23 A. It was either Joe or his lawyer. I can't recall.

24 Q. They came to you in the first instance to write
25 the first affidavit, correct?

1 A. Yes.

2 Q. What was the purpose of that first affidavit?

3 A. Well, he needed someone to attest to what his
4 mental status might have been during that period.

5 Q. And you opined that you were out of the country
6 and surprised when he pled guilty?

7 A. Yes.

8 Q. And he came back to you some weeks later and said
9 we need you to have another opinion that's more
10 specific as to how his depression could affect his
11 mental state?

12 A. Right.

13 MR. McADAMS: Thank you. I have no other
14 questions.

15 THE COURT: Any redirect?

16 MR. WATT: Yes, Judge.

17 **REDIRECT EXAMINATION BY MR. WATT**

18 Q. Dr. Zlotnick, when you rendered that second
19 affidavit, so-called, you did not have access to any
20 information about the proceedings in the trial prior to
21 the time you left for South Africa; is that correct?

22 A. I'm not sure what you're asking.

23 Q. At the time that you wrote the second statement,
24 you didn't have any information regarding the
25 proceedings in the trial up to the point in time that

1 you left for South Africa?

2 A. No. Other than that Joe had pleaded guilty.

3 Q. And your second statement talked in terms of at
4 least your opinion that it was possible, possibilities;
5 is that right?

6 A. Yes.

7 Q. Okay. You didn't have access to trial transcripts
8 or anything else relating to the trial itself; is that
9 right, Doctor?

10 A. That's correct.

11 MR. WATT: Judge, I have no further questions.

12 THE COURT: Is the second affidavit an exhibit?

13 MR. WATT: Judge, I would move it as Exhibit E
14 if there's no objection. C, I guess, Judge.

15 MR. McADAMS: I have no objection, your Honor.
16 It was filed with Mr. Olen's supplemental memorandum
17 last night, your Honor.

18 THE COURT: Oh, I see. Okay.

19 MR. WATT: The Court hadn't seen it as of this
20 morning, Judge.

21 THE COURT: All right. Let's put that in.
22 That's exhibit --

23 MR. WATT: C, I think, Judge.

24 THE COURT: It will be C, but it's attached to
25 this document as what? I guess it's Exhibit A to the

1 memorandum, right?

2 MR. WATT: Please, Judge.

3 THE COURT: All right. We'll make that Exhibit
4 C.

5 (Defendant's Exhibit C admitted in full.)

6 THE COURT: Let me just ask you a couple of
7 questions.

8 And you may not have answers to these questions,
9 but you're familiar with -- you're very familiar with
10 Mr. Caramadre because you were his treating
11 psychotherapist and you're familiar with all of his
12 medications and so forth. And is there anything
13 about -- putting aside what's been described as the
14 acute stress of that weekend and the condition of his
15 wife and his concerns over that for a moment, just
16 putting that aside for a moment, was there anything in
17 your view about the medications that he was taking and
18 the dosages and so forth that would give you any
19 concern about his competence, his ability to understand
20 the trial and the proceedings that he was engaged in
21 based on your very knowledgeable opinion, you were
22 seeing him once a week.

23 THE WITNESS: I'm a psychologist so it's very
24 difficult for me to provide an opinion around his
25 medication regime because that is not part of my

1 training.

2 THE COURT: I understand. I'm asking you what's
3 really a fairly common-sense kind of question. You
4 were treating him once a week. You know that he was
5 taking a number of medications. I understand you're
6 not a medical doctor. I'm not asking you to opine
7 about whether the medications were correct or the
8 dosages were correct or anything like that.

9 I'm just asking you based on your ongoing
10 relationship with him in the time leading up to the
11 trial, did you have any concerns about his competence
12 and his ability to understand the proceeding that he
13 was engaged in? Just generally speaking, did he seem
14 like he was awake and aware and understanding of the
15 predicament of the charges against him and the trial
16 and so forth, or did he seem out of it, incompetent?
17 That's what I'm asking you.

18 THE WITNESS: While I saw Joe, he was able to
19 focus in therapy and understand what was going on in
20 therapy. I was aware that there was work-related
21 impairment, but I wasn't present during that time; but
22 given that he does suffer from depression and one of
23 the sort of symptoms of depression is diminished
24 ability to think clearly and indecisiveness, I can say
25 that it's possible due to tremendous stress that he

1 might have not been able to -- he was compromised in
2 those areas.

3 THE COURT: Okay. But his functionality, again,
4 putting aside the stress of that weekend, if you will,
5 and his wife's condition, just putting that aside for a
6 minute, his functionality was appropriate for someone
7 who was suffering from severe depression and being
8 treated appropriately for it. Would you agree with
9 that?

10 THE WITNESS: During the time I saw him, yes.

11 THE COURT: I'm not trying to put words in your
12 mouth but --

13 THE WITNESS: No, I understand. Yes.

14 THE COURT: I just want to make sure that you
15 didn't see anything that caused red flags to go up for
16 you about his general state of understanding and
17 competence leading up to that point. It was common,
18 typical for someone with his conditions who you would
19 be treating?

20 THE WITNESS: Correct.

21 THE COURT: Okay. That's fine. Very good.

22 So I don't have any -- either of you have any
23 follow-up questions?

24 MR. WATT: Judge, not on the Court's questions,
25 no.

1 MR. McADAMS: No, your Honor.

2 THE COURT: All right. Then your testimony is
3 complete. You may step down. Thank you.

4 THE WITNESS: Thank you.

5 THE COURT: All right. What's next? Is there
6 another witness out of order or should we return to
7 Mr. Caramadre?

8 MR. OLEN: I think we can return to
9 Mr. Caramadre, your Honor.

10 THE COURT: Okay. Very good. Let's do that.
11 Mr. Caramadre, would you please take the stand.

12 JOSEPH CARAMADRE, Resumes stand.

13 CONTINUATION OF CROSS-EXAMINATION BY MR. McADAMS

14 THE COURT: Go ahead, Mr. McAdams.

15 MR. McADAMS: Thank you, your Honor.

16 Q. Hello, again, Mr. Caramadre.

17 A. Hello.

18 Q. When we left off, we were discussing the use of
19 Mr. Radhakrishnan to invest money that was your money.
20 Do you recall that?

21 A. Yes.

22 Q. And do you agree that you gave money to
23 Mr. Radhakrishnan that was your money and permitted him
24 to invest it?

25 A. Yes, I did.

1 Q. And in so doing, he invested in a number of
2 variable annuities?

3 A. Yes, he did.

4 Q. And among those variable annuities was a variable
5 annuity at Midland National Life Insurance Company?

6 A. That was one of three, yes.

7 MR. McADAMS: I'll mark Government Exhibit
8 Number 8, the Midland annuity and a series of checks
9 that was a part of that transaction.

10 THE COURT: Any objection to Number 8?

11 MR. WATT: Judge, same objection as before. I
12 understand the Court is going to allow it to continue.

13 THE COURT: Right. So I'll overrule the
14 objection. You may continue. Eight will be full.

15 (Government Exhibit 8 admitted in full.)

16 Q. So this is the application for the annuity, and it
17 names Mr. Radhakrishnan as the owner and Denise Egan as
18 the annuitant?

19 A. That's what it says, yes.

20 Q. Ms. Egan was a person who responded to the ad you
21 had placed in the Catholic newspaper?

22 A. Yes. We also knew her attorney and so that we had
23 a closer relationship with Ms. Egan.

24 Q. Who was her attorney?

25 A. Her attorney was Ben Paster of Paster and

1 Harpootian, who has the office space next to ours. As
2 a matter of fact, Mrs. Egan's husband called up Ben to
3 ask him to come to one of the meetings regarding this.

4 Q. And did you know Ms. Egan personally?

5 A. I got to know her. She came to my office at least
6 once, possibly twice. Her husband came twice.

7 Q. That was as a result of your interaction with her
8 in connection with this investment?

9 A. Yes.

10 Q. And did Raymour know her personally?

11 A. Yes. Raymour sat in at a meeting with us, and we
12 gave Mrs. Egan two checks of \$5,000.

13 Q. That's when Raymour met her?

14 A. That's when Raymour met her, yes.

15 Q. And in this annuity application, he describes her
16 as his friend; is that correct?

17 A. That's how he describes her, yes.

18 Q. This annuity application, which was dated on
19 December 1st, 2007, was invested with your money,
20 correct?

21 A. I assume so. I'm not really sure of the actual
22 policy. I mean, you're showing me an application.

23 Q. Okay.

24 A. I assume that if it's \$800,000, it's my money.

25 Q. Right. You gave Raymour \$20,000 to send in with

1 the application, correct?

2 A. That's correct.

3 Q. That's a check from your office to
4 Mr. Radhakrishnan for \$20,000?

5 A. Yes.

6 Q. For an annuity for Midland?

7 A. Yes.

8 Q. And Mr. Radhakrishnan then with the application
9 sent in that \$20,000 to Midland?

10 A. Yes.

11 Q. And then a few weeks later, you gave Raymour a
12 check for \$780,000, correct?

13 A. Yes. About two months, I think.

14 Q. Right. About two months from the original date of
15 the application?

16 A. Yes.

17 Q. And then after that check cleared
18 Mr. Radhakrishnan's bank account, he sent a check for
19 \$780,000 to Midland?

20 A. That's correct.

21 Q. And you understood that in order to purchase an
22 annuity that the company that's going to issue that
23 annuity needs to do a thing called a suitability
24 review. Are you familiar with that?

25 A. No. The broker/dealer has to do a suitability

1 review, not the company that issues the annuity.

2 Q. The broker/dealer. I stand corrected. The
3 broker/dealer is the one who must issue a suitability
4 review, correct?

5 A. The broker/dealer's responsibility is to ensure
6 that the investment is not injurious to the investor.

7 Q. They have a number of requirements, do they not?

8 A. That's the suitability requirement.

9 Q. They're required to know their customers; is that
10 right?

11 A. Yes.

12 Q. And they're required to, for example, comply with
13 anti-money laundering provisions?

14 A. Yes. Yes.

15 Q. Various provisions of the Patriot Act and things
16 like that?

17 A. Yes, they have to do that.

18 Q. And you understand that if a person wants to
19 purchase an annuity for a million dollars or for
20 \$800,000 as in this case, that a broker/dealer must do
21 a suitability review for the customer and make sure
22 that that investment is suitable for that person?

23 A. The broker/dealer's commitment is only to make a
24 suitability on the initial deposit because these are
25 open-ended unilateral contracts in which

1 Mr. Radhakrishnan could have put in significantly more
2 money than the 20,000 and the broker/dealer has no say
3 or can pass no judgment after the annuity is issued by
4 the issuer.

5 Q. But to do the initial annuity, they have to do the
6 suitability review, correct?

7 A. They have to complete a suitability form.

8 Q. And in this case, the suitability form was for
9 Raymour?

10 A. I presume so.

11 Q. You would have presume so in order to get this
12 annuity purchased, right?

13 A. I would assume that he'd be filling out some
14 forms, yes.

15 Q. In this annuity, he lists his employer as a
16 company called Network Display Systems. Do you see
17 that?

18 A. I see that he lists that, yes.

19 Q. And you're aware that Network Display Systems was
20 not a functioning company, correct?

21 A. I'm aware now, yes.

22 Q. And it indicates that it's in fact a digital
23 signage business based in Providence?

24 A. Okay.

25 Q. And that he has annual income for 250,000 plus; is

1 that correct?

2 A. That's what the form indicates.

3 Q. And it indicates that he has investment assets of
4 \$1 million?

5 A. That's what it says, yes.

6 Q. And you knew Raymour at this point in time,
7 correct?

8 A. I knew him, yes. He worked for me.

9 Q. You knew then that he did not have a million
10 dollars in assets.

11 A. I'm not sure, but I presumed he did not.

12 Q. Other than the money that you had given him?

13 A. Well, I can't speak to what wealth Raymour may
14 have had through his family, but I presume he did not
15 have a million dollars because I was investing my
16 money.

17 Q. He was investing money that you gave him?

18 A. Yes.

19 Q. Now, after Mrs. Egan passed away, Raymour filed a
20 death claim, correct?

21 A. Yes, I presume so.

22 Q. He indicated here that he was a family friend of
23 Mrs. Egan?

24 A. Yes. Would you like an explanation as to why he
25 put that?

1 Q. You already gave us an explanation, but your
2 attorney can certainly ask you about it on redirect.

3 After that death claim was filed, Midland sent
4 Mr. Radhakrishnan a check for \$883,743.72 right.

5 A. That seems correct, yes.

6 Q. And that check is dated February 4th, 2009?

7 A. That's what it says.

8 Q. And on February 10th of 2009, Mr. Radhakrishnan
9 sent you a check in the exact same amount to the penny,
10 correct?

11 A. That is correct.

12 Q. Now, you read the indictment in this case, right?

13 A. Yes.

14 Q. All right. And you were aware that the series of
15 checks and transactions that we just described actually
16 constituted a very specific count in the indictment,
17 right?

18 A. Yes. The money laundering count.

19 Q. And it described those series of transactions,
20 that you invested money in Mr. Radhakrishnan's name,
21 sent him a series of checks, he sent those checks to
22 Midland National, obtained a death claim, received the
23 benefits and sent the money back to you, correct?

24 A. Those steps are all correct, but I have issue with
25 whether it's money laundering or not.

1 Q. Now, we were talking earlier about Midland
2 National, but the statement of the facts actually
3 describes a number of instances that you made
4 misrepresentations that you currently disagree with.
5 But you also made misrepresentations to Jefferson
6 National, isn't that right?

7 A. I don't agree with it. I don't know what you're
8 asking.

9 Q. We talked before about how it came to be that you
10 met Mrs. Ianiero, that Mr. Maggiacomo you thought gave
11 her money to purchase an annuity, and apparently there
12 was some foul up and you had to go out and beg for your
13 law license, to get it back, do you remember that?

14 A. Yes. Because I was very concerned that
15 Mrs. Ianiero was misled and I wanted her to reaffirm
16 whether she wanted to do this because I was worried.
17 It was an error.

18 Q. You had testified that you would never want her
19 signature forged on an application?

20 A. That's correct. If I know about it, yes.

21 Q. If you know about it. And you would take steps to
22 prevent any other companies from using her forged
23 signature, right?

24 A. Well, I had her re-sign a whole bunch of forms for
25 me.

1 Q. For what?

2 A. For annuities or bonds now that I was supervising
3 them.

4 Q. And you also paid her money, correct?

5 A. I paid her a lot of money, yes.

6 MR. McADAMS: I'm going to mark this as
7 Government Exhibit 9. This is a letter from
8 Mr. Caramadre that was sent to a broker/dealer Lifemark
9 regarding this Jefferson National policy and his
10 relationship with Mrs. Ianiero.

11 MR. WATT: Objection, Judge.

12 THE COURT: The objection is noted and
13 overruled. This is exhibit what?

14 MR. McADAMS: Government's 9.

15 THE COURT: Nine? All right.

16 (Government Exhibit 9 admitted in full.)

17 Q. Now, this was after you had learned about that
18 whole situation with Midland and Ms. Ianiero and they
19 sent you back this \$2.5 million.

20 A. Okay.

21 Q. You wrote on your law office letterhead, Joseph A
22 Caramadre, Esquire, "To whom it may concern: With
23 regard to the application of and the subsequent
24 issuance of the above-referenced variable annuity
25 contract, I hereby acknowledge the following." You

1 state that: "I am the attorney representing Duckworth
2 Clancy, LLC, policyowner, and Mrs. Lily Ianiero, policy
3 annuitant."

4 In fact, you were not the attorney for
5 Mrs. Ianiero; is that correct?

6 A. No, I believe I was.

7 Q. Did you have a retainer with her?

8 A. I don't need a retainer. She's a very nice old
9 lady who needed help, and she called me for many
10 different legal questions as we got to be good friends.

11 Q. You did legal work for Mrs. Ianiero?

12 A. I gave her legal advice, yes.

13 Q. On what matters?

14 A. On how she has to manage her children, her estate
15 and problems she had with her daughter.

16 Q. Now, you wrote in the next paragraph that neither
17 the policy annuitant and/or the policyowner received
18 any form of compensation from the registered
19 representative, Edward L. Maggiacomo, Jr., right?

20 A. Correct.

21 Q. Didn't you testify earlier that you gave him
22 \$4,000 to give to her?

23 A. I testified that for the Midland National he was
24 given \$4,000.

25 Q. Not for this. This is Jefferson National.

1 A. No, not for Jefferson National because I dealt
2 with Mrs. Ianiero myself from then on, and we developed
3 a very good friendship over time. And we'd send her
4 money from time to time just because she needed it.

5 Q. So you gave her \$9500 to be an annuitant in
6 this --

7 A. No. I gave her \$9500 to open up a bond account
8 and consider other annuities as well.

9 Q. So you gave her \$9500 to open up a bond account,
10 but you didn't give her any money to serve as an
11 annuitant?

12 A. No. I probably did give her money to serve as an
13 annuitant. However, as it relates just to National,
14 Edward Maggiacomo didn't give her any money and I don't
15 believe anyone else did. We played by the rules that
16 were set. There were some companies that we would pay
17 people for their signatures and then ask them will you
18 sign another one, we're not going to pay you for this
19 one but we'll pay you a lot for this other one.

20 Q. And the next paragraph says, "The annuitant did
21 not receive any form of compensation from the
22 policyowner, Duckworth Clancy, or any of its members,
23 managers, shareholders, officers or employees."

24 A. That's a hundred percent correct.

25 Q. Because the money was coming from you?

1 A. Yes.

2 Q. So you didn't put in the letter, I'm giving
3 Mrs. Ianiero the money?

4 A. I didn't have to put it.

5 Q. You didn't do that in any way as misleading to
6 Jefferson National?

7 A. No. Because Jefferson National, who, by the way,
8 completely settled with our office on any issues they
9 had, we reached a full settlement, was only wanted to
10 be concerned about if the policyowner or if the
11 registered representative had given her money.

12 Q. And another entity that was concerned about
13 whether the registered representative was paying was
14 the broker/dealer for Mr. Maggiacomo, Lifemark,
15 correct?

16 A. They seemed to have some concern.

17 Q. They were worried about Mr. Maggiacomo or you
18 paying people to serve as annuitants, correct?

19 A. Well, they have no standing to worry about me.

20 Q. Right. But they have standing to worry about
21 Mr. Maggiacomo?

22 A. That's correct.

23 Q. And they can't issue annuities if the annuitants
24 are being paid, correct?

25 A. No. They decide which annuities they will take.

1 They must deal with their registered representative,
2 Edward Maggiacomo.

3 Q. And they wanted assurances that the annuitants
4 were not being paid?

5 A. From Edward Maggiacomo, yes.

6 Q. So you wrote this letter and had Ed Maggiacomo
7 give a copy of it to Lifemark so that they would be
8 assured that the annuitants were not being paid?

9 A. From Ed Maggiacomo or the policyowner.

10 Q. Did you put anywhere in the letter that it's not
11 Ed Maggiacomo who is paying them, but it's me, Joe
12 Caramadre?

13 A. No. I also didn't put in any other irrelevant
14 information.

15 Q. You were not the attorney for Sheila Battey, were
16 you?

17 A. I became a friend of Sheila Battey, and she may
18 have called me for some legal advice regarding her
19 husband, but we developed a personal relationship.

20 Q. Isn't a fact Mr. Caramadre, that you gave Mr. and
21 Mrs. Battey \$5,000 to serve as an annuitant and you
22 told Mr. Battey that he would receive additional funds
23 upon the death of Mrs. Battey, and that was the
24 relationship you had with the Batteys?

25 A. That is not correct. Sheila Battey did not answer

1 an ad. There was no ad at the time in 2006. She was
2 referred to me by a friend of the office as someone who
3 was very concerned about getting her husband some money
4 because she was dying of cancer. So I gave her \$5,000,
5 and then at some other point I believe we gave them a
6 little bit more money, but there was no contract after
7 death because we wouldn't know if we would make any
8 money.

9 Q. You never served as her attorney, correct?

10 A. I may have given her legal advice. I didn't say
11 it was retained as her attorney.

12 MR. McADAMS: Government Exhibit's Number 10,
13 which is another letter I'd like to move into evidence.

14 MR. WATT: Same objection, Judge, please.

15 THE COURT: The objection is noted and
16 overruled.

17 (Government Exhibit 10 admitted in full.)

18 Q. This is another letter that you wrote off your law
19 office letterhead, and you wrote, With regard to the
20 application and subsequent issuance of the
21 above-referenced variable annuity with Jefferson
22 National and Sheila Battey as the annuitant, that you
23 are the attorney representing Agostini Construction
24 Company, the policyowner, and Mrs. Sheila Battey, the
25 policy annuitant.

1 You were not an attorney representing her?

2 A. I may have been, because I called her. Jefferson
3 National sent out private investigators to harass the
4 Agostini Constructions and the Sheila Batteys. And
5 when she called me, she asked me would I please
6 represent her to get the insurance company people out
7 of her hair.

8 Q. She called you and asked you to represent her as
9 an attorney?

10 A. She said, Can you get them out of my way. And I
11 said --

12 Q. If the Government calls her husband, her widower,
13 Greg Battey, Is his testimony going to be consistent
14 with that?

15 A. I don't know what Greg Battey's testimony --

16 Q. It's going to be contrary to that, isn't it?

17 A. I don't know what he'd testify to. I could show
18 you a letter that Mrs. Battey wrote me to thank me for
19 all the work I did for her.

20 Q. I'm sure you can. Look at the bottom paragraph of
21 this letter. It says, "Please direct any further
22 communications regarding Agostini Construction Company,
23 policyowner, or Mrs. Sheila Battey, annuitant, to my
24 office."

25 A. That's correct.

1 Q. And that's the same language that you wrote on
2 Exhibit 9 with respect to Mrs. Ianiero, right?

3 A. Yes.

4 Q. As an attorney, you understand what it means when
5 you tell somebody that you represent them, correct?

6 A. Yes.

7 Q. What does it mean?

8 A. It means that they require representation and
9 protection from whatever their issue is.

10 Q. And it prevents the audience from contacting
11 Mrs. Battey and/or Mrs. Ianiero directly without going
12 through you, correct?

13 A. Well, they already had contacted both these
14 people.

15 Q. They had contacted Mrs. -- Midland National had
16 contacted Mrs. Ianiero?

17 A. No. No. Jefferson National had also gone and
18 contacted Mrs. Battya and Mrs. Ianiero, and they did not
19 want to be pestered by insurance companies.

20 Q. Mrs. Ianiero had been contacted by Midland and
21 Midland learned that she had no idea who you were and
22 you didn't want that mistake to happen again so you
23 sent a letter to the next company down the line,
24 Jefferson National, claiming an attorney-client
25 relationship to prevent them from reaching out and

1 speaking to Mrs. Ianiero and Mrs. Battey, isn't that
2 right?

3 A. By the way, it was done at the insistence of all
4 the parties involved here, and there was no follow-up
5 from Jefferson National except for an accorded
6 satisfaction on these particular annuities.

7 Q. Now, we went through all of that annuity with
8 Mr. Radhakrishnan from Midland, and you agree with me
9 that there were other annuities in which you
10 essentially did the same thing?

11 A. Yes.

12 Q. With Mr. Radhakrishnan?

13 A. Yes.

14 Q. You provided all the funds, the annuity was opened
15 in his name and he returned the funds to you?

16 A. Mr. Radhakrishnan was a holder and trustee, a
17 common process that is allowed as long as you use the
18 federal banking system. It's not cash that we are
19 transporting. It is done through check. And the tax
20 accounting is with complete detail and filed 1099's at
21 the end of the transaction.

22 Q. That's your explanation for why you gave the money
23 to Mr. Radhakrishnan?

24 A. No. I gave it to him because I wanted him to
25 invest the money and watch it.

1 Q. And you didn't want those companies to think it
2 was you and reject the annuity application?

3 A. No, because I could have bought -- I did buy a
4 Western Reserve annuity the same time Mr. Radhakrishnan
5 did.

6 Q. Well, you couldn't buy one from Midland, right?

7 A. Again, if Raymour decided to go to Midland, I
8 don't really know.

9 Q. And Pacific Life, you're familiar with that
10 company as well, right?

11 A. Yes.

12 Q. That was a company that had terminated you as the
13 agent in 2002, correct?

14 A. Well, in 2002, they may have terminated us, but,
15 again, it didn't matter to me if Raymour could purchase
16 this. My concern was that I learned since that there
17 was wrongful information on the application by Raymour.

18 Q. You had no idea that that might happen?

19 A. No, because I wouldn't have approved it.

20 Q. Even though you are the guy that reads the fine
21 print on everything, right?

22 A. Yes. Yes, I do. I read the annuity fine print,
23 yes.

24 Q. And you didn't read the application fine print?

25 A. There would be no need for Raymour to say he

1 worked for Network Display. Network Display was a
2 company he was trying to start. He was a legal
3 employee of mine. He would testify himself that I did
4 not know that he put this down and that it was his own
5 creation.

6 Q. And you used him to open up annuities with Pacific
7 Life as well, isn't that right?

8 A. Looking back at the file, I believe we moved a
9 hundred thousand into Pac Life.

10 MR. McADAMS: I'm going to mark as Government
11 Exhibit 11 the Raymour and Nathan Lee --

12 MR. WATT: Your Honor, I renew the objection to
13 the line of questioning.

14 THE COURT: Objection is noted and overruled.

15 (Government Exhibit 11 admitted in full.)

16 Q. Can you see that application?

17 A. I can just about see it, but I understand what it
18 is, yes.

19 Q. And Pacific Life was a company that had terminated
20 you as an agent in 2002, right?

21 A. I believe so. I retired my licenses shortly
22 thereafter because I was getting more into the field of
23 reading contracts rather than selling them.

24 Q. And you were concerned that if you got an annuity
25 from Pacific Life that it might be rejected, so you

1 used Raymour as a person?

2 A. I don't even know that he had applied to Pac Life.

3 Q. You didn't know this?

4 A. No. I mean I let him decide which companies, and
5 he would come to me after it's sent in and I know there
6 was \$100,000 check he wanted to start one, and he
7 started it.

8 Q. So you just gave a 23-year-old kid hundreds of
9 thousands of dollars, millions of dollars actually, and
10 just told him do whatever he wants with it?

11 A. Well, buy the annuities and use the investments in
12 the annuities, yes.

13 Q. So you knew that he was buying them an annuity?

14 A. I did. Now, whether it was Pac Life or some other
15 Life, that's just how it is.

16 Q. Just a coincidence that the companies that he was
17 used as the owner are the same companies that had
18 rejected you?

19 A. Well, not all the companies.

20 Q. Because you used him for even more companies than
21 that?

22 A. No. Western Reserve didn't shut us down. He
23 bought two \$1 million annuities from them. If I was
24 concerned about --

25 Q. And those were also your money, correct?

1 A. Yes.

2 Q. The Sandra Bulpitt Western Reserve annuity?

3 A. I don't remember who the annuitant was.

4 Q. Now, there were other people that you put your
5 money in the names of in the course of your business
6 activities, correct?

7 A. Very few, but yes.

8 Q. Walter Craddock, you put money in his name, right?

9 A. Water Craddock is an associate attorney in my
10 office and at times we shared an investment fund, or I
11 put all my money in his name.

12 Q. You would open up a bond account with a terminally
13 ill person as the co-owner, and it would be Walter
14 Craddock and Bertha Howard, for example, and it would
15 be your money, correct?

16 A. In some cases, it might have been. Would you like
17 to know why?

18 Q. I just want to know if it's true or not.

19 A. It's true we opened it, yes.

20 Q. You invested money in his name?

21 A. Yes. There was a specific purpose.

22 Q. You also did that with other people, such as your
23 wife and your parents and other people?

24 A. Hold on a second. My parents have their own
25 money. My wife has her own money. So she was an

1 investor.

2 Q. So the investment that you made, for example, in
3 Mr. Wiley's name with Trade King, that was your wife's
4 money independent of you?

5 A. Yes. Yes. We were splitting up our estate for
6 estate tax purposes, yes.

7 Q. And that was an investment that she decided --

8 A. No. That was an investment. She sought advice
9 from me that I had authority to manage. It's my wife.

10 Q. You also had other corporate entities that you
11 used with respect to your money, right?

12 A. There were some corporate entities that I
13 controlled corporations for some reasons, whether we
14 decided whether we would invest money or not in these
15 corporations.

16 Q. Such as ADM Associates is an example, right?

17 A. ADM is a wholly-owned company of my three
18 children, Amelia, Michael and Daniel, LLC.

19 Q. And those are minor children, right?

20 A. Yes.

21 Q. All that activity that relates to ADM and
22 Associates?

23 A. It's my money. I'm a hundred percent owner of the
24 LLC. No one's tried to conceal that. I signed the
25 application.

1 Q. Now, we talked about Lifemark. And Lifemark is a
2 broker/dealer, correct?

3 A. Yes.

4 Q. They were the broker/dealer that Mr. Maggiacomo
5 was associated with?

6 A. Yes.

7 Q. And there came a point when complaints had been
8 made, for lack of a better word, about some of the
9 investments that you had going with various insurance
10 companies and some of those complaints were directed to
11 Lifemark; is that right?

12 A. I presume so because if they were mad with the
13 type of business we were giving them, they would try to
14 get to the broker/dealer as well.

15 Q. So a complaint would go to Lifemark complaining
16 and essentially complaining about Mr. Maggiacomo and
17 then he would hear about it from Lifemark?

18 A. Or directly from the insurer, but yes.

19 Q. Or both?

20 A. Or both, yes.

21 Q. All right. Now, in April of 2008, some
22 representatives from Lifemark came out to your office,
23 didn't they, to meet with you?

24 A. That's what they said, so I presume it's correct.
25 I don't remember what happened in April of 2008.

1 Q. Do you agree that the statement of facts that you
2 signed under oath alleges that you made
3 misrepresentations to Lifemark?

4 A. I do not agree with that statement of fact, no.

5 Q. Do you agree that it says that?

6 A. I agree it says that, yes.

7 Q. Do you remember an individual by the name of Jim
8 Prisko from Lifemark coming to visit you and
9 Mr. Maggiacomo?

10 A. Jim Prisko came to do his due diligence, came over
11 with Mr. Maggiacomo who was one of his registered
12 representatives. Jim Prisko had no authority over me.
13 I'm merely a client.

14 Q. But he did meet with you?

15 A. Yes, I'm sure he met me.

16 Q. And he asked you some questions about the
17 relationship between yourself and Mr. Maggiacomo,
18 correct?

19 A. Yes.

20 Q. He wanted to know, for example, if Mr. Maggiacomo
21 was sharing commissions with you?

22 A. Yes.

23 Q. Because you understand that sharing commissions
24 with a person that's not licensed to sell variable
25 annuities such as yourself is prohibited?

1 A. I understand that I cannot receive moneys for
2 transactions and securities directly.

3 Q. And in fact, you were receiving a portion of the
4 commissions that Mr. Maggiacomo generated on behalf of
5 terminally ill associated annuities that you had
6 identified through your ad, correct?

7 A. Mr. Maggiacomo had an office in my office in which
8 he received full secretarial, free rent, you name it,
9 Internet computers and my legal research on these
10 annuities. So we agreed that he can pay me some of his
11 success to me. And it mattered not to me if it was a
12 commission, if it was rent or if it was legal fees. I
13 declared it all anyway.

14 Q. But you had a specific agreement with
15 Mr. Maggiacomo, did you not, that you were entitled to
16 35 percent of the commissions that he generated from
17 annuities where you identified the terminally ill
18 annuitant?

19 A. As a referral fee, yes.

20 Q. You did. So you had that agreement with
21 Mr. Maggiacomo?

22 A. Pretty much a loose agreement, yes.

23 Q. A loose agreement?

24 A. Yes.

25 Q. Didn't you send a nasty e-mail to Mr. Hanrahan and

1 Mr. Maggiacomo about that agreement?

2 A. I probably sent a nasty e-mail to them telling
3 them that they were screwing up something.

4 Q. Right. And you were upset with Mr. Hanrahan that
5 you were giving away 35 percent of the commissions to
6 Mr. Maggiacomo?

7 A. The basis of that was to speak with my junior
8 partner, Ed Hanrahan.

9 Q. So the folks from Lifemark came and they wanted to
10 know if Maggiacomo was sharing commissions with you,
11 right.

12 A. Right.

13 Q. And you told them no?

14 A. No. I told them from now on I'm not going to
15 accept commissions in that capacity.

16 Q. And you told Ed Maggiacomo just write me a check
17 for the rent and call it rent on the check, right?

18 A. I agreed with Mr. Maggiacomo that he should pay me
19 commissions. He agreed with me that he owes me money
20 for rent and other services, and I will declare it as
21 rent. He doesn't pay rent anyway, and he owes the firm
22 money.

23 MR. McADAMS: I would like to mark a check dated
24 June 11, 2008, from Mr. Maggiacomo to Mr. Caramadre's
25 Law Offices as Government Exhibit 12.

1 THE COURT: Right. I'll note the Defendant's
2 objection and I'll take the exhibit, Exhibit 12.

3 When you finish this transaction, we'll probably
4 call it a day.

5 MR. McADAMS: I have one more document that goes
6 with it.

7 THE COURT: All right. Then I'm going to want
8 to see counsel in chambers.

9 (Government Exhibit 12 admitted in full.)

10 Q. So Mr. Caramadre, this is an example of a check
11 from Mr. Maggiacomo for \$45,000 which he marked it as
12 rent, correct?

13 A. Yes. The law office is the major tenant, and
14 other people derived benefit from being in the office.

15 Q. I'll just make it part of the same exhibit, this
16 check from Estate Planning Resources, which is your
17 company in the same office, correct?

18 A. Yes. Estate Planning Resources is one of my
19 corporations.

20 Q. To Chapel Associates, which is your landlord,
21 right?

22 A. Right.

23 Q. For rent in that same period. That's \$12,650 or
24 38, something like that.

25 A. Whatever it says.

1 Q. So your rent in the same period is roughly a third
2 of the amount of money that Mr. Maggiacomo gave you and
3 called it rent, right?

4 A. Well, that's not correct. When Mr. Maggiacomo
5 pays rents to me, he's paying for overhead, very
6 expensive overhead of staff, legal attorneys that work
7 for me, my time and other overhead factors. You want
8 to write one monthly rent check, you haven't looked at
9 the phone bill, you haven't looked at the Workers' Comp
10 bill for the people who serve Mr. Maggiacomo.

11 Q. So it's your position you didn't receive
12 commissions from Mr. Maggiacomo after Lifemark asked
13 about it?

14 A. After we agreed, I told him pay me rent and it was
15 perfectly fine.

16 MR. McADAMS: We can break now.

17 THE COURT: All right. I think we'll stop the
18 testimony here for now and we'll continue this hearing
19 on a date that I'm going to work out with counsel
20 upstairs in a few minutes. And so we'll recess for the
21 day and I'm also going to ask Mr. Gerstein to please be
22 kind enough to come and join us for a few minutes.

23 All right. We'll be in recess.

24 (Court concluded at 4 :30 p.m.)
25

C E R T I F I C A T I O N

I, Anne M. Clayton, RPR, do hereby certify
that the foregoing pages are a true and accurate
transcription of my stenographic notes in the
above-entitled case.

/s/ Anne M. Clayton

Anne M. Clayton, RPR

May 2, 2013

Date